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Self-government in Louisiana.

Speech of Hon. John Sherman in the United States Senate. 1875.

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SELF-GOVERNMENT IN LOUISIANA.

SPEECH

OF

HON. JOHN SHERMAN,

OF OHIO,

IN THE

UNITED STATES SENATE,

JANUARY 16 AND 22, 1875.

WASHINGTON:
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1875.

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SPEECH

OF

HON. JOHN SHERMAN.

The Senate having under consideration the resolution submitted by Mr. SCHURZ on the 8th of January, directing the Committee on the Judiciary to inquire what legislation is necessary to secure to the people of the State of Louisiana their rights of self-government under the Constitution—

Mr. SHERMAN said:

Mr. PRESIDENT: The first matter I wish to bring to the attention of the Senate is the gross injustice that has been done in this debate to the President of the United States, to General Sheridan, and I may say to the republican party. I doubt if the history of this country has furnished a parallel to the character of declamation and arraignment of these high officers upon grounds so false, frivolous, and causeless. My colleague, on the day after the transactions of the 4th of January, hastily introduced a resolution, addressed to the President, not couched in the usual language of courtesy, calling for official information in regard to matters that had occurred in Louisiana on that day. No objection was made to its passage, but only that it should be put in the usual form. At once a heated debate occurred in which language of the most violent character was uttered, perhaps by none more than the generally calm and dignified Senator from Delaware, [Mr. BAYARD.] When I come to look over his speech and notice the marked language uttered by him, and compare it with the actual facts now before us, I must express my amazement that he should have uttered such language upon even the alleged facts then before him, and especially in the absence of all official information or statements from the high officers he arraigns. In speaking of General Sheridan the Senator uttered this language:

> Now, sir, I ask the Senate and the country to listen to the tone of this officer and see, when you have read his dispatches to the Administration here, who shall say whether he is even fit to breathe the air of a republican government.

Again he says:

> Ah, Mr. President, if there was the tone that under other administrations animated the Executive of this country, he would never sign his name again as Lieutenant-General of the United States Army.

In other words, General Sheridan is denounced not only as unfit to breathe the air of a republican government, but as having committed an act of such moral turpitude, such gross outrage, that he ought at once to be dismissed from the service of the United States as Lieutenant-General of the Army. So my honorable friend in the heat of the excitement of this debate has arraigned the President of the United States in language scarcely less severe. He says:

> There is not in that State one case of abuse of power, of peculation, robbery, and filthy dishonesty, with which the history of its government is filled in the last two years, in which his displeasure has ever been signified by the removal of an improper official, not one word of rebuke.

Again, sir, he says:

> The President of the United States was advised of it; he was kept well informed of it, and his semi-official utterances, made known to the people, were that, no matter what frauds should be accomplished by this board, they should be maintained at every cost, or that "somebody should be hurt" in case interference was attempted with their nefarious proceedings.

Again he says of the President and General Sheridan:

> Where do we see them now? Overthrown and cast down by the furious lawlessness, by the unlawful ambition, of these two officials whom I have named, the creature and the creator.

Such is the language used by the Senator from Delaware about the President of the United States and the Lieutenant-General of the Army.

My friend from Missouri [Mr. SCHURZ] also was in hot haste to pass judgment against these high officers and the republican party. After near one week's debate the resolution was adopted calling on the President for information. Up to that hour the President's voice had not been heard; the Senate was in utter ignorance of the material facts in this controversy until the message came in; and yet my friend, not satisfied with the declamation that had been uttered, eagerly entered the lists before the President could possibly reply to our call, and with studied rhetoric, carefully written and conned over, which must have consumed in preparation all the time that elapsed since the events of the 4th of January—refusing to wait, saying at the outset of his remarks that we know enough already to characterize the transactions of the 4th of January—not waiting for the very information that we all voted to call for, entered the debate and joined in the accusations. Sir, he would not have done this to the meanest culprit that walks your streets; and yet he would thus array, try, and condemn his fellow-soldier, without a hearing and without the facts. Sir, when I heard his statement of facts, I knew at once that his argument, based upon such a statement, was utterly unreliable and undeserving of any consideration whatever. Read the first page or two of his speech, containing his statement of facts—the basis upon which his argument rests; note the omissions of material facts now known to us and the distortions of other facts; contrast this statement with the real facts now communicated to us, and the gross injustice of his arraignment becomes so palpable that no reply to it is necessary. It will stand as additional evidence of his ability, and also as a monument of hasty but gross injustice to high officers of the Government, his compatriot soldier, and to the republican party that has honored him with all the trusts that it could confer upon him.

Nor was this injustice confined to these halls. The same arraignments extended as if by preconcert all over the United States. The governors of States sent forth their views on this subject in messages to Legislatures. They would not wait for the ordinary current of events. I have here an extract from the message of Governor Parker, of New Jersey, in which he denounces the action of the President of the United States as a usurpation, upon alleged facts totally at variance with all the material facts now known to us. But the most remarkable production is a speech made by Governor Allen, of Ohio. I shall not say how far this speech is colored by the peculiar circumstances under which it was made, at a banquet given on the 8th day of January, when he as an old Jackson Democrat probably felt very buoyant and very happy. In that speech he is reported by a friendly paper in speaking of Louisiana as saying:

The whole of the vote was cast; a conservative majority was elected. Some dispute as to the returns of the election arose, as has been the case hundreds of times. This dispute, under the constitution and the laws, could only be settled by the legislative body which the people had elected. How was it settled? It was settled in the old way of despotism, settled by an armed body, settled by the Army of the United States paid by your taxes, settled by a man who was ordered there *for his lawless military despotism*—

Alluding to General Sheridan—

And now, after having turned out enough of the elected members of the triumphant party to give to the minority the control of the law-making power of that State, he wants to make a big job, and he telegraphs to the President of the United States that *every white man in the three States is a bandit* and outlaw, and in order to get rid of them by a short, quick process, so that there will be no trouble in the future, he wanted to pursue precisely the course Cornelius Sylla pursued with triumphant party, for he slaughtered one hundred thousand citizens of the other party. Having done the deed he was found dead, rotten in his bed from head to foot and eaten up with worms.

That is the opinion of Governor Allen of General Grant and General Sheridan. But that is not all. To fan the excitement a meeting in the great commercial city of our country was suddenly held and organized under a call that was a palpable falsehood, and is now shown by the message to be a palpable falsehood. The statement made in that call was as follows:

The legislative body of a sister State, peaceably assembled, has been broken into and dispersed by Federal troops acting under orders from the President of the United States.

Every affirmative proposition in this call is an absolute falsehood, admitted now to be so, shown to be so by the message of the President of the United States; and yet upon this call, in the heat and excitement of the moment, able men, men who stand high in the confidence of the people of this country, met in public meeting at the Cooper Institute and denounced General Grant and all authority. I believe that the time will come when some of the gentlemen who participated in that meeting will deeply regret this gross injustice that under the heat of excitement, created by false information and for political effect, was done by them.

Now, sir, what was the occasion of all this denunciation? What caused this commotion? We have now the facts. They are stated in the message of the President of the United States and also in the various documents which have been spread before the public. We know the height and depth and breadth of the offense that was committed on the 4th of January in New Orleans. What has the President done that was illegal or wrong? What act or order of his is complained of? What power has he exercised that was not plainly, palpably his duty? He ordered some of the troops to New Orleans to preserve the public peace and to suppress domestic violence. This was done upon the legal requisition of the governor of Louisiana. He was as ignorant as we were of what was done there. He gave no order or direction which contemplated what was done. He sought to avoid the use of troops in Louisiana, and in August last withdrew them. The result was an armed and treasonable overthrow of the government of one of the States. By the general approval of the people of the United States he suppressed that rebellion and restored the State government, and that without shedding a drop of blood. The troops were left there to preserve the public peace and were appealed to and relied upon by both parties. Such was his offending and no more, and for this he was arraigned upon false information by honorable Senators, governors, and citizens. For this he is compared with Sylla and all the brutal tyrants of ancient and modern times.

And how about Sheridan? What had he to do with the events of the 4th of January? Absolutely nothing. He was present as a spectator, just as the committee of the House was present. He had authority by virtue of his rank to assume command, but he did not do so, for he did not anticipate the lawless seizure by Wiltz and his confederates of the organization of the house of representatives of Louisiana. It was not until nine o'clock that night, when actual fighting was imminent, that he assumed command. The next day he sent to the President indignant telegrams, but these were no part of the events of the 4th of January, and I will have occasion to refer to them further on.

And yet Grant and Sheridan are accused of dispersing a legal Legislature by the Army of the United States in such hot haste that they would not wait to know the facts, and with such language of vituperation as would be used against the basest criminals, and by Senators, governors, and citizens who have characters at stake. Sir, they have overdone this business, and the sober second thought of just men will turn these accusations against the accusers.

Now let us examine what did occur in New Orleans on the 4th of January last; and we have two prominent facts to deal with: first, the illegal, violent, and revolutionary seizure by Wiltz and the minority of the house of representatives of Louisiana of that house and its organization; and, second, the expulsion by General De Trobriand, an officer of the Army of the United States, acting under the orders of Governor Kellogg, of five men claiming to be members of that house, but having no right to participate in its organization. This is the *gravamen* of the charge against that officer—the whole of it.

Let us look now a little more closely at the law which governed the organization of that house. A material and vital question in this controversy is whether that house was organized or in any sense a legal legislative house at the time the expulsion of the five alleged members took place. I understand my colleague to affirm that it was. I deny it; and there is one material question in this case. If that was a legal assembly, a house of representatives authorized, and those men had a right to participate and vote—if it was then duly and legally authorized as a house of representatives, I would admit that the conduct of General De Trobriand was totally unjustifiable and that Governor Kellogg had no right to disperse them, and that no order from any authority whatever could interfere with the organization or with the conduct or action of that house once legally organized. But there is the question——

Mr. THURMAN. Allow me to interrupt my colleague for a moment. He says that is all the question. I say it was organized; but that is a matter for discussion hereafter. Does my colleague mean to affirm that, whether that organization was irregular or regular, any irregularity authorized an officer of the Army to enter and take out five claimants to seats, and men who had been elected to that body, some of them by a majority of over 1,000 votes? Where is the authority for the interference of the Army, whether the organization was regular or irregular?

Mr. SHERMAN. I will give my colleague my precise view of it in my own order of time and in the order of events, and he will see before I get through exactly what my opinion is on all these points.

He alleges as the basis of this complaint that the house of representatives was duly and legally organized as a legislative body when these five men were ejected, and that these five men had a right to

participate in that organization. That brings me to the consideration of the election law of the State of Louisiana. This law has been so often read that I do not think it necessary for me to read it again. It is sufficient to say that the law of Louisiana is like the law of most of the States, and that under the law of Louisiana a returning board was organized composed of five men—in this case I am told of two democrats and three republicans, all of whom but one, I believe, were natives of the State of Louisiana—it was organized according to law, and it had the right to pass upon the returns of members. It was the duty of this board to make out a list of the members, and that list was handed to the secretary of state; by him it was communicated to the clerk of the old house, who by law was the temporary presiding or organizing officer of the body. That list was made out in due form. It contained on it one hundred and six names, and of these one hundred and six persons one hundred and two appeared in the hall of the house at the hour and on the day designated by law. Of these, it is admitted on all hands that fifty-two were republicans and fifty democrats. This division of the body into two parties is a fact that will be recognized by all. It is admitted that fifty-two men, calling themselves republicans, met together and nominated as their speaker Mr. Hahn, and that fifty met together and nominated as speaker of the house Mr. Wiltz. Then we here have the palpable fact that out of one hundred and two men whose names were entered upon the roll and who answered to their names on that memorable 4th of January a majority, fifty-two, were republicans, who had nominated Mr. Hahn as candidate for speaker, a minority; of them, fifty, were democrats, who had named Mr. Wiltz for speaker. Those one hundred and two men had the sole right to vote then and there for speaker or for anything else. Will my colleague admit that?

Mr. THURMAN. No.

Mr. SHERMAN. I say then he shows the weakness of his argument, because now he is driven to say that men who were not entered on that roll, whose election was disputed, had a right to go there with or without law and vote; and there is the point—the initial point.

Mr. THURMAN. I do not say that men had a right to go there with or without law. I have said no such thing. I say that I will demonstrate, if I am capable of demonstrating anything, that those five men were as much entitled to their seats, and to participate in that organization, as my colleague and myself are entitled to seats on this floor; and I will prove it by the constitution and laws of Louisiana.

Mr. SHERMAN. I have the law of Louisiana here, and we will start upon this initial point fair and right. This question is to be decided by the law of Louisiana, and by no other law; and here the statute is plain:

Be it further enacted, &c., That it shall be the duty of the secretary of state to transmit to the clerk of the house of representatives and the secretary of the senate of the last General Assembly a list of the names of such persons as, according to the returns, shall have been elected to either branch of the General Assembly, and it shall be the duty of said clerk and secretary to place the names of the representatives and senators-elect, so furnished, upon the roll of the house and of the senate, respectively, and those representatives—

Now mark it—

those representatives and senators whose names are so placed by the clerk and secretary respectively, in accordance with the foregoing provisions, *and none other*, shall be competent to organize the house of representatives or senate.

If this is to be tested by the law of Louisiana, here you have it. The one hundred and two men who responded to their names on the

roll-call on that memorable day were the only men in all the world who had a right to participate in the organization of that house; and no man, whether elected or not, no man, whatever might have been his title, under the law of Louisiana was entitled to vote there except those men who were returned and who answered to their names when the roll was called.

That is the initial point, and as I hear the argument of my colleague I do not see how he will get over that. The one hundred and two men were present in bodily form; they answered to their names. Fifty-two had already in an informal way designated their choice for speaker. Fifty of them had also designated their choice. A majority were republicans and in favor of the election of Hahn. What next? By the law of the State of Louisiana the clerk performs certain functions in presiding over that body during its organization. This law has already been read:

That for the purpose of facilitating the organization of their respective bodies, the secretary of the senate and the chief clerk of the house of representatives shall hold over and continue in one office from one term of the General Assembly to another, and until their successors are duly elected and qualified.

I do not rest my position solely upon this law, because the precise character and duties of the clerk are not defined. And I do not discuss this case upon technicalities. I rest it upon the fundamental principle that the majority had the power in that body to control its organization, to elect its speaker, to elect its clerk, to control the organization, and that nobody else had the right to appear there until other members were admitted legally and formally after the organization was perfected. Whether the clerk was to preside or not could not change the right of the majority to organize the house, though his right to preside was an important provision to secure a regular and orderly organization. The law of the State of Louisiana, like the law of Congress, like the law of many of the States, thus provided for a temporary presiding officer in order to guard against the very evils that have grown out of the attempted usurpation of Wiltz. But the fundamental and controlling principle was the right of the majority of those named on the roll and then present to decide who should be speaker cannot be questioned. But, sir, what occurred? The roll was called, and then suddenly, without notice, by preconcert, a man by the name of Wiltz was nominated by, I suppose, a member of the house as temporary speaker, an officer unknown to the law of Louisiana. Suddenly, without a legal vote, he rushed up to the chair, seized the gavel, and declared himself temporary speaker of that body. At once there was a call for the vote. By what vote was he elected? Did anybody vote for him more than the forty-nine other democrats beside himself? No man pretends it. Any man who says that there is any evidence, by inference or otherwise, that Wiltz was elected by the majority of that assemblage there who were entitled to vote, says what is plainly and palpably false. Of the one hundred and two men whose names were on the roll, Wiltz never received, by shout, by sanction, by uplifted hand, or in any way, the votes of more than forty-nine others besides his own. That we all know; and yet against the known wish of the majority, already ascertained in an informal way, he went up and seized possession of the chair, took the gavel, drove the clerk away, and assumed authority there.

Let us go a little further. Who voted for him? Does my colleague say that the republicans voted for Wiltz? No. He may say that these five men voted for him, but the law of Louisiana declared that they should not participate in the organization. They had no right

to vote, and he could not possibly have received any but the forty-nine votes of his associates and his own vote, fifty in all. Who declared him elected? Nobody. He declared himself elected. He was a usurper from the very beginning. By what authority did he act? By the authority of violence, by the authority of impudence, by the authority of the minority, and not the authority of the majority. The majority of the names on that roll, and who had the right to control that organization, never voted for him. He never was elected speaker even of that temporary organization. The facts upon this point are stated in various sources of information. I am glad to say that on this point no one of them varies. They are all of the same bearing. The statement made in the telegram of General Sheridan is borne out in every particular by all the other statements which have been made and submitted to Congress.

There is one principle in this Government which I think my colleague will agree with me upon, and that is that in this Government of the people, by the people, and for the people, the majority must rule. Here was a designated body of one hundred and two men authorized by law to do a particular thing, to organize that house. Any successful overthrow of that majority is a denial of the very basis and corner-stone of our republican institutions. Now let us see how important this elementary principle of our Government is. I will ask the Secretary to read one or two paragraphs from Cushing's Manual on Parliamentary Law.

The Secretary read as follows:

115. In all collective bodies of men, assembled and acting together for the purpose of deliberating and deciding upon any subject, or for the purpose of electing to any office, it is an admitted principle that whatever is done or agreed to by the greater number shall stand as the act or the will of the whole. This principle assumes, as its basis, the absolute and perfect equality of all the individuals, one with another, who enjoy the right of suffrage, in the possession of the elements essential to the determination of any act to be done, or to the formation of any judgment to be pronounced, or to the effecting of any election to be made, as the act, judgment, or choice of the whole.

116. This equality being conceded and, as the foundation of a system of government, it can neither be denied in fact nor questioned in principle—it is easy to conclude, first, that the knowledge and wisdom of the greater number—taken promiscuously, will be superior to the knowledge and wisdom of any smaller number of the body of men; and, secondly, that as whatever is done or resolved by the greater number affects and operates upon the individuals themselves composing it equally with the others, that which is so done must necessarily possess the quality of justice in a higher degree than the act or resolution of any smaller number would be likely to possess. It is upon these grounds that the common sense of mankind recognizes the authority of the majority as the only solid foundation of all popular government.

Mr. SHERMAN. I also ask the Secretary to read on page 167, sections 412 and 414.

The Secretary read as follows:

412. The rule of decision, in all councils and deliberative assemblies whose members are equal in point of right, is that the will of the greater number of those present and voting—the assembly being duly constituted—is the will of the whole body. Hence whatever is regularly agreed upon by a majority of the members of a legislative assembly is a thing "done and past" by that body. Where the assembly is equally divided, there is, of course, not a majority in favor of the proposition which is put to vote, and that proposition is consequently decided in the negative."

[At this point the honorable Senator yielded for an adjournment.]

Friday, January 22, 1875.

Mr. SHERMAN. Mr. President, the principles involved in the Louisiana case are as important as any that have been discussed in the Senate of the United States since the foundation of the Govern-

ment. Their gravity cannot be overstated or overestimated: and therefore I do not regret that some little time has elapsed since this discussion commenced and that more time will still elapse before any vote can be had or any practical measure affecting the state of affairs in Louisiana be adopted. I think I can properly invoke on the part of the Senate of the United States a spirit of fairness and calmness in discussing a question that is so exciting.

If this question cannot be here seriously and calmly considered, it can be nowhere. It is manifest that the excited parties to this contest in the State of Louisiana are rather in a condition of war, of force, of violence, than a condition of calm discussion. The general tone of the public prints throughout the country is not one that indicates a fair and proper decision of this question. If it cannot be decided here without heat or animosity, it can be nowhere.

When on Saturday last I gave way to an adjournment, I had called the attention of the Senate to a rule of law which is fundamental in its nature and must be the corner-stone of all republican government—that is, that the majority must rule. This law applies not only to the electoral college, to the votes among the people, but to all assemblies, religious, clerical, or lay. It is the foundation of the parliamentary law of all assemblages of men in any capacity whatever. Mr. Cushing, the well-known writer upon this subject, in the extracts which I had read at the close of my remarks last week, lays down this principle in very clear and strong language, and it is re-repeated in many parts of his work.

The first question always is, Who compose the constituent body of which the majority must rule? That is a question that in this case, it seems to me, is settled by clear law in the State of Louisiana: that is, that the persons named on a list prepared by a returning board organized under the State law, and containing on it one hundred and six names, of whom one hundred and two responded to their names on the roll-call on the 4th of January. That was the constituent body. No one had a right to vote unless on that roll; the law of Louisiana is clear and explicit that *none other* than those named on that list could vote. Of the one hundred and two who answered to their names fifty-two were known to be republicans and fifty democrats.

Here we have an initial point that my colleague seemed to dispute; but I think upon further reflection he will not dispute that no one could vote except those named on this list. Of those named in the list one hundred and two were present. Those whose seats were contested could not vote, because by the language of the law of the State of Louisiana "none other" than those returned by the returning board could vote, and these five were not only not returned as members, but they were expressly named as contestants or claimants to seats, and their claims were referred to the house when organized.

Then the next question is, how is the majority of this body of one hundred and two members then present to be ascertained; and here again there is no doubt about the law. By parliamentary law, in the absence of constitutional or statute law, the majority may be ascertained either by voice, by a division, by tellers, or by a vote by yeas and nays. In the old Grecian assemblies generally the loudest voices carried the day. So in more modern parliamentary assemblies, even in England, they have not yet a well-considered manner of ascertaining the sense of the majority. There the usual vote is by tellers, by persons on one side passing out of one lobby and those on the other side out of another, and the votes being ascertained in this way the

result is announced by the speaker. But in this Government of ours, from the time of the framing of the Constitution to this hour, there has been one fixed, immutable rule, that is now, I believe, prescribed by the constitution of every State of the Union, that the only proper way in a disputed case to ascertain the wish of the majority is by a yea and nay vote. Therefore it is that in the Constitution of the United States it is provided that a small portion of the body may at any time demand the yeas and nays. In the constitution of the State of Louisiana this right is expressly secured to any two members; and this right is important not only to the minority in fixing the responsibility of the majority and of the members composing it, but it is also important to the majority, because it is the only correct mode of ascertaining who constitute the majority. This is the only way of passing laws or having a fair vote on any contested proposition.

We find this fundamental rule laid down in Cushing's Manual, and I will ask the Secretary to read the paragraph that I send to the desk marked on this subject, to show the universality and importance of this rule.

The Chief Clerk read as follows:

5. Of taking the question by yeas and nays.

1493. It is provided in almost all the American constitutions that the yeas and nays of the members of our legislative bodies, on any question pending before them, shall be taken and recorded in their journal on the demand of a certain number of the members present, or of a certain proportion of their number; but no mode is therein pointed out for ascertaining whether that form of taking the question is demanded by the requisite number. This is left to be done by putting the question, on the demand of a single member, in the ordinary manner.

Mr. SHERMAN. To show that this rule of parliamentary law is a part of the constitution of the State of Louisiana, and is the controlling element in this question, I ask that a brief article of the constitution of Louisiana, article 36, be read.

The Chief Clerk read as follows:

ART. 36. Each house of the General Assembly shall keep and publish weekly a journal of its proceedings; and the yeas and nays of the members on any question, at the desire of any two of them, shall be entered on the journal.

Mr. SHERMAN. This rule of parliamentary and constitutional law has been deemed so important that it is prescribed in every State of this Union. It is prescribed as to all branches of the Government of the United States. It is a fundamental principle, by which alone the will of the majority can be ascertained. Now, test the usurpation of Wiltz by this simple, plain, constitutional rule; and is it not apparent to every man, unless he is guided by mere partisan feeling, that the conduct of Wiltz on that occasion was a bold, glaring usurpation, which would have justified the majority in having gone up and torn him from his seat. What did Wiltz do? I will now, in order to quote from documents not contested by any one, read the conduct of Wiltz as given to us by a sub-committee of a committee of the House of Representatives, composed of Mr. FOSTER, Mr. PHELPS, and Mr. POTTER, a document that I have no doubt will be assented to on this point as the testimony of impartial and disinterested witnesses giving a narrative of what they saw. I ask the Secretary to read the marked passages in this statement.

The Chief Clerk read as follows:

The instant the clerk finished the roll-call, several members rose to their feet, but the floor was successfully held by Mr. Billieu, who said that he nominated L. A. Wiltz as temporary chairman. The clerk suggested that the legal motion was to elect a speaker. Mr. Billieu himself, paying no attention to the clerk, proceeded hurriedly to put his own motion, which was received by loud yeas, and followed by as loud nays, and declared it carried. Mr. Wiltz sprang instantly to the platform,

took from the clerk the gavel, was quickly sworn in by Justice Houston, who followed him to the platform, and then rapped the house, which, during this time, had been in great confusion, into a temporary quiet. Mr. Wiltz, as temporary chairman, administered the oath to the members *en masse*, who rose to receive it. Some members made a motion to elect Terzevant clerk. Wiltz put the motion and declared it carried. Terzevant at once came forward and took the clerk's chair; immediately after, and with the same haste, a Mr. Flood was elected sergeant-at-arms, and at once, whether on motion or not your committee do not remember, a number of assistant sergeants-at-arms were appointed, who promptly appeared wearing badges, on which were printed "assistant sergeant-at-arms." *While the above-mentioned motions were being put, members objected and called for the yeas and nays, all of which was disregarded and pronounced out of order by the acting chairman. Colonel Lowell, a republican member, made the point of order that the constitution of the State allowed any two members to call for the yeas and nays on any motion, but the temporary chairman decided the point was not well taken until a motion for permanent organization.* Next, a motion to go into an election for a permanent organization was offered, and declared premature. *Against this ruling the republicans protested.* A motion to seat the democratic members alleged to be elected in the four parishes, referred to the Legislature, was immediately made and carried. During this stage there was much disorder. *The republican members protested, but their protests were disregarded.*

Mr. SHERMAN. Mr. President, this statement shows that Wiltz openly trampled under foot the constitution of the State of Louisiana, parliamentary law, and all laws of fairness and decency. I have been amazed that while my honorable colleague, [Mr. THURMAN,] my friend from Delaware, [Mr. BAYARD,] and the Senator from Missouri [Mr. SCHURZ] were denouncing General Sheridan and General Grant for doing the acts complained of, not one single word of compaint has been uttered by any of these gentlemen in regard to Mr. Wiltz; and yet Mr. Wiltz plainly and palpably violated the law of Louisiana, the constitution of Louisiana, the principles of popular government, and the very basis and structure of republican government.

Mr. BAYARD. I desire to say to my honorable friend that we did not consider that we were sitting upon the regularity or the irregularity of Mr. Wiltz's action. The point we were upon was this: That whether he was regular or irregular, it was not the part of the President of the United States, or the governor of Louisiana, or the military forces of the United States to decide.

Mr. SHERMAN. This shows the glaring unfairness of the statements of these honorable gentlemen. They denounce the President of the United States and General Sheridan without knowing the actual facts; and yet, knowing the actual facts of this bold usurpation, this direct trampling upon every law that governs the subject, they never uttered one single word of reproach against Mr. Wiltz. I will say now that the act of Mr. Wiltz is a crime more dangerous in its consequences than the murder of a hundred men, or of a thousand men. The idea that a body of men with great authority, with power to make laws for Louisiana, should be thus controlled is monstrous. Suppose the Senate of the United States should meet together, and that suddenly without a vote some one would rush to that chair and put questions, and when protests were made, when the yeas and nays were demanded, and those securities invoked which were intended to guard the rights of the minority as well as the majority, that man sitting in that chair should disregard the Constitution of the United States, refuse to allow the yeas and nays to be called, refuse to put a question in the face of protests—I ask you what would be your indignation against such an atrocity? Would not the man who would thus trample under foot constitution and law meet at once with the universal denunciation of all fair-minded men? And yet that man Wiltz, when he seized upon the chair of the speaker of that house without authority of law, in plain disregard

of the will of the majority, knowing at the time that he would not be voted for by a majority, having been nominated already by forty-nine men, when fifty-two men had nominated another gentleman, went there and refused to put a question, when, under the constitution of Louisiana, members arose and demanded the yeas and nays, called for the roll, and did all that men could do in the presence of an unlawful violence, he disregarded these calls, he trampled under foot that constitution that he had just a moment before irregularly sworn to. He violated his oath, taken there not two minutes before this thing occurred. He trampled upon the rights of the majority, usurped its authority, committed perjury if his oath was valid, and introduced a scene of lawless disorder, outrage, and wrong; and yet this act of Wiltz, admitted on all hands to be illegal, in violation of the constitution, revolutionary, destructive of the very foundation and fundamental principles of republican government, in the face of law, written and divine, has not caused one word of reproach, not one word of honest indignation, from those so ready to denounce others. And yet I say to you now, with full knowledge and with full investigation of this matter, that the crime of Wiltz—yea, the CRIME of Wiltz—to say nothing of his perjury, to say nothing of his disregard of the fundamental principles that he had only a moment before sworn to, was infinitely greater than the murder in cold blood of a hundred men, because it struck at the liberty of the whole people. If the principle which guided Wiltz should become the rule and habit of our legislative assemblies in this country, then popular liberty is at an end and republican governments are overthrown. If our Legislatures, our houses of representatives and senates, are to be organized by this lawless violence and disregard of constitutional and fundamental law, then all your boasted republics have already disappeared, and are not worth the parchment upon which their constitutions are written.

And yet that was the scene which was continued from twelve o'clock on that day until General De Trobriand appeared there and took out five men who had no right to participate in that organization. Compared with what was done by others in any view you may take of this question, the crime of Wiltz ought to stamp him with infamy. His crime is much worse than the crime of Cromwell, who dispersed the Rump Parliament, or any one else who interfered with lawless violence in the organization of a legislative body. His crime must be admitted to be lawless, revolutionary, bold, and desperate; and by law any man who was injured might have gone up to that chair and dragged him from his seat by violence, and the law would have maintained that action. When a man appears as speaker by the consent of the majority, even if irregularly ascertained, even if it is not ascertained in accordance with parliamentary law in the mode and manner pointed out, that is one thing; but when a man, knowing that he represents the minority, goes and seizes upon this power, denies to a majority their right to govern, deprives every one of the members of that body of the right to call for the yeas and nays, lawlessly and violently maintaining the power that he has thus seized, I say that he is guilty of a crime which would justify any member of that body to go up and drag him from his seat.

If Wiltz's conduct is not entirely lawless and revolutionary, how can a majority ever control a political body? How can a majority rule either among the people or in legislative halls? It cannot be done. If the minority by their representatives in this way can disregard constitution and law, there is an end of the idea that a majority must rule,

because here a minority, through their agent, Wiltz, by preconcert seized upon the power of the majority and denied to the majority not only their right to rule, but even the ordinary incidents which are granted to a minority, the right to call for the yeas and nays, the right to demand the vote.

Sir, I have read many cases in history where the majority have trampled upon the rights of the minority. The majority sometimes with a bold hand exercise their power. I have participated in cutting off debate and in crowding the minority, but never before have I read in any history where a minority usurped the rights of a majority, and denied the majority even the plainest constitutional rights of the minority.

Mr. STEVENSON. Will the Senator allow me to ask him a question?

Mr. SHERMAN. Certainly.

Mr. STEVENSON. If the five members who were not on the list, but who were returned by the returning board, were regarded as part of that Legislature, then was Mr. Wiltz the organ of a minority?

Mr. SHERMAN. In the first place, no one can, in the face of the law of Louisiana, claim that those five men could participate in that organization, because the law of Louisiana expressly recognizes the fact, and so declares, that none others should participate except those members returned by the returning board.

Mr. MORTON. They were not returned by the board.

Mr. STEVENSON. I say they were returned.

Mr. SHERMAN. Not at all.

Mr. STEVENSON. I say it on authority. The rule of law is that you cannot read part of an instrument without the whole. You have quoted from the report of the House committee that went down there, and I assert that they say they were returned and were legally elected.

Mr. SHERMAN. That committee say that they perhaps were legally elected and the board did wrong in excluding them from the list; but they do not say that they were returned by that board.

Mr. STEVENSON. Then the argument of my honorable friend from Ohio puts the liberties of the people and this great right of suffrage in the hands of a self-constituted board.

Mr. SHERMAN. My friend from Kentucky is a little too excited. On the contrary that board was constituted by his own political friends. The Warmoth law, as it was called, expressly provided for that board.

Mr. HAMILTON, of Maryland. Will my honorable friend allow me to correct him also?

Mr. SHERMAN. I hope I am not to be cut up in my remarks in this way.

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Maryland?

Mr. SHERMAN. I would rather not have so many interruptions at once.

Mr. HAMILTON, of Maryland. Will the Senator not allow me?

Mr. SHERMAN. I hope the Senator will permit me to proceed.

The VICE-PRESIDENT. The Senator from Ohio is entitled to the floor.

Mr. SHERMAN. That law of Louisiana is like the law of many of the States. It turns over to a select body of men the power to pass upon the returns, in the first instance, and the same law declares that their action shall be final until the house is organized, and that the

persons returned by that board and none others shall participate in that organization. Another reply to my honorable friend from Kentucky is this, that Wiltz himself conceded this. He admitted the fact, he acted upon it, that those five men had no right to vote. Otherwise why deny the yeas and nays? Why deny all the constitutional rights of a majority? Why refuse to take a vote? Why suddenly before the organization by a vote admit the five members? Who admitted them? Could they vote in their own case? But I will come to that again. To say that these five men had a right to participate, as is claimed, is entirely absurd; and Wiltz himself never based their right to vote there upon such a claim as that. On the contrary he undertook to give them the right by a vote subsequently had, and there was even then a refusal to take the vote by yeas and nays upon the admission of these members.

Mr. STEVENSON. The question which I submitted to my honorable friend was that if they were legally elected members of the Legislature—not entering into the discussion, admitting that they were legally elected members of that Legislature—then was Wiltz the speaker of a minority?

Mr. SHERMAN. No, sir.

Mr. STEVENSON. We will discuss hereafter the question of their denial of the right to seats.

Mr. SHERMAN. I will discuss hereafter what rights those men had. They had a right to present their claims as members, to be admitted if a majority of those legally entitled to vote would allow them to be admitted; but I will come to that in a moment. My friend from Kentucky goes along a little faster than I do.

Now, Mr. President, the signal-gun of all that followed was this usurpation by Wiltz and the denial to the majority of a right that is conceded to a small minority in every legislative body, the right to call the yeas and nays. But for this unlawful conduct of Wiltz there would have been no interference with the Legislature of Louisiana. Senators must see that in looking at causes and events you trace the whole back to this refusal by Wiltz, this revolutionary violence by Wiltz, and his denial to either a majority or minority of the plainest rights that anybody possesses as a member of a legislative body. This was the signal-gun, and all that followed was but the natural and necessary sequence of this one event. Every single thing that was done after that resulted from this lawless and revolutionary violence. Therefore when you denounce men who participated in the subsequent proceedings, why not denounce this act, the beginning of this revolutionary violence? There was where I thought my honorable friend from Missouri, in his carefully-prepared statement, failed to do his duty. He promised that calmness and fairness should guide him in making what he said was to be a parting speech to the Senate, and yet he did not put any stress or even state the facts in regard to the usurpation of Wiltz and his denial of the yea and nay vote which was the signal, the beginning and the cause of every act that followed.

Mr. SCHURZ. Will the Senator from Ohio permit me to interrupt him for a moment?

Mr. SHERMAN. Yes, sir; as I alluded to the Senator.

Mr. SCHURZ. When the Senator speaks about the cause and the signal of the disturbance, is he willing to accept the report of the House sub-committee sent down to Louisiana to investigate things, as true?

Mr. SHERMAN. I was called off a moment, and did not hear the remark of the Senator from Missouri.

Mr. SCHURZ. I was going to ask, is the Senator, in speaking of the cause and signal of the disturbance, willing to take the report of the sub-committee sent by the House of Representatives down to Louisiana as true?

Mr. SHERMAN. I will come to the part the Senator alludes to, presently.

Mr. SCHURZ. I merely put that question to the Senator.

Mr. SHERMAN. I do not wish to refer to that now. I have no doubt at all that the majority of that body had a right to pass upon the claims and rights of members; but I will speak of that hereafter.

Mr. SCHURZ. I do not refer to that. If the Senator wants to go to the bottom of things, then he will have to admit, according to that report, that a gross fraud was perpetrated by the returning board and that that returning board was, in its very constitution, not according to the constitution and laws of Louisiana, and that there the cause of the whole disturbance is to be found.

Mr. SHERMAN. Does not everybody see the transparent evasion of the point I made on the honorable Senator? He makes no answer to the allegation I make that he omitted the material facts of this whole controversy.

Mr. SCHURZ. The Senator does not do me justice. I did not omit that, for in my statement of the circumstances I said expressly that when the question was put with regard to the temporary chairmanship, it was not put by the clerk.

Mr. SHERMAN. Ah, but that is not the point.

Mr. SCHURZ. I admitted further that although the organization of that Legislature should have been in accordance with the statutes of the State, yet it was not for a general of the United States Army to decide that question.

Mr. SHERMAN. The Senator will fail to show me where he admitted that this man, with force and violence, seized the speaker's chair and refused the yeas and nays, which it was the constitutional right of any two members of that body to demand. He says now, in order to evade this point, which he cannot evade, that I neglected to state the conduct of the returning board. I will not neglect to state the conduct of the returning board, but shall discuss it in due time, for I shall not avoid anything of the kind.

Now, I say the initial cause of this whole trouble was the illegal seizure by Wiltz and the minority of that body of the powers of that house when, by the law and the constitution of Louisiana, they had no right to do it. It was the denial to the majority of the rights that are conceded to a minority of two, the refusal to take a vote and the attempt to pass upon the right of five men to seats there without the right of the majority to vote according to the constitution. And here is the whole trouble, and the beginning and the end; and the popular voice, always more just even than the Senate of the United States, seized at once on this point, and while they might not have justified Sheridan in the telegram that I will refer to, or perhaps the appearance of the military in that hall, yet they saw at once that these men who resorted to violence, who resorted to fraud, who trampled under foot constitutions and laws, were not the persons to make technical or carping objections to the mode and manner of enforcing legal authority and overthrowing their lawless usurpation. Those who resort to force must expect force.

Now, Mr. President, I want to show further that this usurpation by Wiltz was not acquiesced in at any stage of this controversy. We

have the statement of General Sheridan, clear and explicit, concurred in by every eye-witness, that every movement made by this revolutionary body, controlled by Wiltz, was protested against; the yeas and nays were demanded; every opposition was made to it that men could peaceably make; and in my judgment his usurpation would have been overthrown by force by the majority of members then present but for the interposition of General De Trobriand. It is apparent that after an hour or two of lawless seizure the republican members, together with outsiders, called the lobby, were about to intervene; and I do believe that but for the intervention of General De Trobriand Wiltz would have been torn from that seat, tumbled out of it. He had no right there. I appeal to lawyers to say whether, if blood had been shed in an attempt by force to drag Wiltz from the seat that he usurped, it would not have rested upon his skirts and not upon those who by force expelled him. After peaceable means were exhausted, how else could they assert their rights as a majority? It is not necessary to discuss this question, for fortunately it was avoided. It is sufficient to know that force would have been used by the republican members, by the majority of that body having the right to that organization, and by those in that hall who sympathized with them but for the appeals made by Wiltz himself to the Army of the United States to protect him in his usurpation. All the statements given to us by eye-witnesses, some of whom I have conversed with, agree that at the moment when the motion was made to call General De Trobriand to come in and interfere there was imminent danger of an outbreak, when blood would have been shed, and Wiltz himself, perhaps, would have been the first victim. There can be little doubt that if that request had not been made by Wiltz and by those who voted with him for the intervention of the military authorities, a scene of bloodshed would have occurred in that hall. Does my honorable friend from Missouri doubt it? I understood from his own statement that bloodshed would have resulted but for the interference of General De Trobriand in the first instance there to quiet and put down disorder. So, sir, the minority, having firmly placed themselves in possession unlawfully of the speaker's chair, denying to the majority all rights whatever, appealed by vote to the Army of the United States to protect them by armed force from the power of the majority; then General De Trobriand was by a vote sent for, not as a mere citizen or constable, but as an officer of the Army with troops at hand in warlike array. A committee waited upon him outside, brought him in, and he came in with his uniform on, with his sword by his side and with his two aids-de-camp.

Here is another point where my honorable friend [Mr. SCHURZ] strangely was led by his feeling rather than by his sense of calmness and justice. He describes De Trobriand appearing on the second time with his sword by his side, his belt around him, his aids and his bayonets; but when De Trobiand appeared in the first instance, according to the description of the Senator from Missouri, he appeared as a kind-mannered man, a gentleman of pleasing address, to put down lawless disturbance, to restore quiet, to pour oil upon water instead of, according to the actual fact, as an Army officer, with his sword at his side, with two aids with him, and with men and bayonets right at the door.

Mr. SCHURZ. Where does the Senator get that?

Mr. SHERMAN. In the telegram.

Mr. SCHURZ. Turn to it.

Mr. SHERMAN. I cannot turn to it now, but you will find it in that statement.

Mr. SCHURZ. Whose statement?

Mr. SHERMAN. General Sheridan makes the statement that when De Trobriand appeared in the first instance on the call of the speaker of the house by a vote, he appeared with his sword at his side, with two aids with him, and with soldiers outside.

Mr. SCHURZ. Where does the Senator get that in the first instance?

Mr. SHERMAN. I think it is in General Sheridan's dispatches, but I will try and satisfy the Senator on that point.

Mr. SCHURZ. O, no: I do not care about it.

Mr. SHERMAN. I will show it to the Senator. The same language is used. This is the telegram of General Sheridan:

> The excitement was now very great. The acting speaker directed the sergeant-at-arms to prevent the egress or ingress of members or others, and several exciting scuffles, in which knives and pistols were drawn, took place, and for a few moments it seemed that bloodshed would ensue.

He goes on:

> At this juncture Mr. Dupre, a democratic member from the parish of Orleans moved that the military power of the General Government be invoked to preserve the peace, and that a committee be appointed to wait upon General De Trobriand, the commanding officer of the United States troops stationed at the State-house, and request his assistance in clearing the lobby.

Here was not a mild-mannered gentleman, as General De Trobiand is, called on to act as a peace officer or constable, but here was an appeal to the military power of the United States, and a call made on the commanding officer, with troops then in the presence and in possession of the State-house. Let us go on and see:

> The motion was adopted. A committee of five, of which Mr. Dupre was made chairman, was sent to wait upon General De Trobriand, and soon returned with that officer, who was accompanied by two of his staff officers.

The same language was used when he appeared afterward as when he came in first. When he was called upon the second time by Governor Kellogg, he went in in the same way with two staff officers, and it was not until Wiltz resisted his action that he brought in superior force to carry out the order under which he was acting. Thus, sir, I have shown you that the revolutionary violence of Wiltz would have been overthrown by the rightful power of the majority but for the interposition of the Army of the United States. It is true that we should have had a scene of bloodshed in that chamber, for which all the blame and all the wrong would have been on the part of Wiltz and his associates. They were the usurpers; they were guilty of revolutionary violence; they denied all right to the yeas and nays, and they refused to take the vote. They refused to obey the law of Louisiana which required that only those named on a certain list should vote, and none other. If that violence had been met by violence, theirs would have been the wrong. They appealed to the military authority and on their appeal the military authority did intervene; but here is the difference in the two cases: The republicans, who were plainly in the right at this stage of the contest, obeyed with kindness and gentleness the remonstrance of General De Trobriand and they left the hall. They did not require actual force to be shown and a military array to be brought there to compel them to go out; but they left; while on the other hand, when the same officer appeared at the request of Governor Kellogg, then Wiltz refused to yield to apparent force, to the officer of the Army, the same officer that he had himself appealed to, but demanded that actual force should be used in order to make a show of resistance. Then it was that the United States soldiers were marched into that hall and five men were taken out of it. And when this force was used only to the extent made

necessary to execute the order they fill the land with the cry of military violence and usurpation!

Mr. SCHURZ. I asked the Senator where he got that description of General De Trobriand's interference, and he read from General Sheridan's dispatch. I suppose he will have no objection, although I attach very little importance to that point, if I just quote the report of the House committee upon that:

> A committee was appointed to wait on General De Trobriand and request his compliance. Colonel De Trobriand soon came to the bar unaccompanied, except by one aid, whom he left there, and then alone approached the speaker. The speaker requested him to ask for order in the lobby. Colonel De Trobriand did so, and order was then restored.

Mr. SHERMAN. There is no substantial difference.

Mr. SCHURZ. I say I do not attach any importance to this matter.

Mr. SHERMAN. The only difference is this: When De Trobriand appeared at the call of Wiltz, the republicans who were making the noise and confusion and threatening to turn out Wiltz head over heels quietly subsided at the appeal of the officer of the United States. On the other hand, when Kellogg called on the troops to put down lawless violence, Wiltz, the usurper, the man who had committed perjury, the man who had started this scene of revolutionary violence, would not yield to the request of General De Trobriand. When General De Trobriand said "Do not compel me to use force; you five gentlemen come out; do not compel me to use force," Wiltz replied, "You must use force; you shall do it; not one of these men shall leave his seat until you use force;" and then De Trobriand, like a soldier, used only the force necessary to put these men out. There is the difference. De Trobriand in both cases appeared as an officer of the United States, with his sword by his side, on duty, in command, with a large body of armed soldiers at the door: and he appeared there in the first instance at the call of Wiltz, who had no more right to be in that seat than any one of us had a right to be speaker of the house of representatives of Louisiana.

Mr. THURMAN. I do not wish to misunderstand my colleague, and I should like therefore to ask him now whether I am to understand him as justifying De Trobriand's expulsion of those five members?

Mr. SHERMAN. My colleague ought to know me well enough to know that he cannot catch me by any premature question. I will tell him precisely how far I do approve of General De Trobriand's conduct before I get through. His question would lead me to a point not now before us.

I here again repeat the point that the usurpation of Wiltz was never for one moment acquiesced in. It was protested against. Every parliamentary expedient to which even the best parliamentarians could resort was resorted to to resist that revolutionary violence; and the majority would have gone further, and with the power and right of the majority they would have controlled that organization but for the interference of an Army officer with the Army at his back; but they yielded; and what did they do then?

Before I go any further, when General De Trobriand appeared in that hall and practically expelled republican members, because that was the effect of his action on the first call of Wiltz, I ask any Senator whether that house of representatives was a lawful house? Had it the power of a house of representatives in any sense of the word? Was it a lawful organization? It is impossible to say so; and I appeal now to Senators who are called upon to consider these facts as

they are presented to us to say whether or not the house of representatives as it existed with Wiltz in the chair, and when De Trobriand appeared and practically expelled the majority, who were certain to resist the action of the minority—was that a lawful assembly in any sense of the word? Palpably they were usurpers. If such a body is lawful in our republican Government, what in the name of Heaven is unlawful!

Here is a case where a man without a lawful vote seized the speaker's chair, refused to take the vote, denied the call of the yeas and nays, swore five men in upon the report of a committee against the protests of the majority. There never was a vote from beginning to end. Sir, in this whole proceeding there was no constitutional vote; there was no legal vote. There was no organization. There was no element of lawful assembly.

Mr. BAYARD. The Senator has stated that a *viva voce* vote upon a motion to elect a speaker may be decided by the sound. He admits that that could be done lawfully. In this case the *viva voce* vote was put by Mr. Billieu, who had the floor and maintained it, and Mr. Wiltz was chosen or declared by him to have been chosen, and he assumed the chair and was sworn. Then Mr. Wiltz, having been so sworn by an officer recognized by the laws and constitution of Louisiana to swear him in, administered the oath to the one hundred and two members who were present.

Mr. SHERMAN. My friend ought not to interpose argument while I am on the floor.

Mr. BAYARD. I beg the Senator's pardon. I will not argue at all; but as he spoke of facts, I was merely reciting facts that made that permanent organization, in my opinion, a lawful one. When the one hundred and two members took the oath, by rising, from Mr. Wiltz's lips; when their party friends who left the city of Washington to engineer things, members of the other House, saw some of the members sitting down, they went to them and urged them to rise and take the oath, so as to be included in the temporary organization of the house. Then came the call for a permanent organization.

Mr. SHERMAN. I must insist on going on. Now, since several Senators have rather, I was about to say, abused the courtesy of asking me to yield for a question, I must insist on going on in order.

Mr. BAYARD. I beg the honorable Senator's pardon if I did so. I thought he asked for the facts, and I merely answered him as I thought in order.

Mr. SHERMAN. All that I asked the Senator was whether in his opinion that organization was lawful, and his answer was "yes," and there was the end of it; and after that I do not think he was at liberty to state facts in the nature of argument. It is a common practice in the Senate, but it is a bad one. No one knows better than my honorable friend that a *viva voce* vote is never conclusive when there is a demand for the yeas and nays. The demand for the yeas and nays when granted supersedes at once the *viva voce* vote. I have here the statement of Mr. FOSTER and of his associates that in every stage, on every question that was put, the yeas and nays were called for. Here is what Mr. POTTER and these other gentlemen of the House committee say:

> While the above-mentioned motions were being put, numbers objected and called for the yeas and nays, all of which was disregarded and pronounced out of order by the acting chairman.

When a *viva voce* vote is taken and a yea and nay vote is called for there is the end of the *viva voce* vote; it is no longer to be regarded; it is superseded. We see that every day here in our daily business.

When a vote is called for and there is much or little sound, and anybody rises and calls for the yeas and nays and they are ordered, that is the end of the *viva voce* vote.

Mr. BAYARD. Was there not a yea and nay vote on the permanent organization?

Mr. SHERMAN. On every motion, according to the testimony of these gentleman, the yeas and nays were called for but not allowed to be taken. And what the Senator calls the vote on permanent organization was not put until the majority of members were practically expelled, nor until the constituent body was changed by the admission of five new members. Suppose the Clerk of the House of Representatives when General Banks was elected Speaker had denied the call of the roll until after a permanent organization. Suppose, when I had the honor to be a candidate for Speaker, the Clerk of the House at that time had denied the call of the roll to the minority of the body. Would it not have created bloodshed and revolution? Who ever dreamed of such a thing? The right to call the yeas and nays is just as important in the preliminary vote as any other. This list is furnished for the very purpose, that the clerk might know who should vote; and every vote from the beginning, according to the constitution of Louisiana, is protected by the right to the yeas and nays. There have been half a dozen times in the history of our country where if a yea and nay vote had been denied it would have created a revolution in this country. No man can question the fact. When Mr. Cobb was elected Speaker over Mr. Winthrop, if the yeas and nays had been refused there would have been bloodshed. So when General Banks was elected; so when Mr. Pennington was elected. The yea and nay vote is the very beginning, the foundation of republican government and of parliamentary regular government; and the denial of that right on the organization was the commencement of this trouble in Louisiana. To say that the majority did not resist, did not remonstrate, did not appeal, did not demand the yeas and nays, is an allegation that is denied by every man who participated in that body. I asked several gentlemen who were witnesses, and they said that in every stage, from the very beginning, at the moment Wiltz rushed up without the question being put so that it could be heard by anybody, all these calls were made, made with violence sometimes, but always made. So that this proceeding was lawless, revolutionery, by a lawless, desperate, armed mob; for I have no doubt both sides were armed, according to the information I have received.

After this organization had been perfected, as they say, by Wiltz, what was done? Then a legislative act was done. They proposed to admit five persons to seats as members. Who voted to admit those five men? There is again a conundrum I should like to have my honorable friend from Delaware answer at his leisure—who voted to admit those five men? They could not vote in their own cases. The constitution of Louisiana in this particular is like our own Constitution. Excluding those five men, who doubts but what the majority were republicans? Who claims that a majority voted to admit the five? Who admitted the five men who were sworn in there with the solemn sanction of an oath by Wiltz, the usurper? I ask my colleague and the Senator from Delaware, who now stand upon the right of the five men to vote, who voted to admit them? The question was put and they were admitted, but who voted for it? Not the majority, because they were denied the right to vote and the yeas and nays were forbidden. It was the minority who admitted those men in the preliminary organization, and upon that lawless vote, a

vote taken in plain and palpable denial of the simplest right of parliamentary law and of the constitution of Louisiana, five men were sworn in and then participated. First the minority seized upon the chair and the organization by violence, then the same minority without a vote put in five more men, and then without a vote claimed to be the majority, and then rode rough-shod over the constitution and laws of that State and all principles of parliamentary law. It will not do. It is an outrage; and no sophistry, no eloquence, no ability can excuse, palliate, or defend the lawless usurpation of Wiltz and his associates. Here was the beginning of this trouble, and but for this there would be now no trouble in Louisiana. If those one hundred and two men had met there on their organization, then passed promptly upon the claim of the five persons to seats, the probability is that the democratic party might in due process and in due form of law have obtained the majority; but they would not do it. They seized upon that organization by force and violence; they trampled upon every principle of the constitution and parliamentary law. They would rather win by force than gain by fairness; and thus it was that the troubles which have occurred in Louisiana, and which now disgrace our republican form of government, were precipitated by a lawless band of desperate men who would not pursue the forms of law to gain what they claimed to be the rights of a majority of that body.

Mr. President, to show you that I have taken a dispassionate view of this matter, I propose to have read a brief extract from a paper that I saw published in the New York Times, and which contains my view of this case so strongly that I venture, although I do not know the gentleman but I am told he is a democratic lawyer of standing in the city of New York—Mr. E. W. Stoughton—to ask that his statement of the legal aspect of the question as it was presented by Mr. Wiltz's seizure upon the organization, be read. I gladly embody his opinion as my own, and it is better stated than I can state it.

The Chief Clerk read as follows:

While the roll was being called by the old clerk, a member nominated Wiltz as temporary speaker, and without a moment's delay he was declared elected, not by the clerk, says Mr. SCHURZ, and sprang to and took forcible possession of the speaker's chair and gavel. There, in defiance of the efforts of the clerk to proceed and regularly organize the assembly, Wiltz called upon a justice present to swear him in. This was done, and then a temporary clerk was nominated and declared elected, and then, in the same manner, a sergeant-at-arms; and immediately following this, numerous assistant sergeants-at-arms, who, on being declared elected, opened their coats and displayed badges of office, showing clearly that all this fraud and outrage had been carefully planned and contrived beforehand, and that these assistant sergeants were selected, and doubtless armed, with a view to holding violent possession of the house, and of its organization, after the fraud should have been perpetrated. Immediately after this temporary organization, the conspirators —*not a legislative body peaceably, or otherwise, assembled*—proceeded to declare five persons, who had obtained access to the hall, but who had not been returned by the returning board, members, and entitled to sit as such. Thus had been accomplished by fraud and violence a great public wrong against the State of Louisiana—subversive of law, of constitutional rights—by means of which, if successful, the legislative power was delivered over to the persons not charged with it as representatives of the people, but who—a minority at the outset—had by fraud and force so added to their numbers as to become a majority.

Mr. SHERMAN. That is the opinion of a lawyer who, I am informed, stands in the very first rank in his profession in New York, but does not agree with me in politics.

It is said sometimes that it is within the sole and exclusive power of the house of representatives of Louisiana, like all other legislative bodies, to pass upon the election, returns, and qualifications of its own members. So it is. That again is a fundamental principle of constitutional law. From the very necessity of the case, each

house must judge of the elections, returns, and qualifications of its members; but who is to judge? Each house. Who is the house? Is it a lawless band of usurpers described by Mr. Stoughton? Have they alone the power to pass upon that question? If it was left to the house then present in Louisiana, it is plain and manifest that in the first instance at least those five men could not have been admitted to seats. But each house shall judge of the election. How judge? By vote. That is the only way that a legislative body can judge, by hearing the case; or by a vote even without hearing they may decide. Was there any hearing there? Were there any papers presented showing that these five men were entitled to seats? Was there any discussion? Was there any opportunity of discussion? Was there any vote? No; but the usurper who sat in the chair, according to Mr. Stoughton, refused the majority of the members of the house of representatives of Louisiana that which is conceded by the constitution of that State to any two of them. He refused when they called for the yeas and nays upon the vote to admit those five men. Could those five men vote to admit themselves? My friend said that if you add those five men to the minority of democrats that would have made a majority. But can that minority admit five men in order to make a majority—there is the question—and that without a vote by yeas and nays? Not at all.

Mr. LOGAN. They could not vote on their own admission.

Mr. SHERMAN. Certainly they could not vote on their own case anyway, even if their right was undisputed and indisputable; and clearly the majority would have been against them, at least in the first instance. Upon this point I will ask the Clerk to read the opinion of Mr. Stoughton, because it presents this particular point stronger than I can do.

The Chief Clerk read as follows:

It has been said in the speeches to which I have alluded that it is the right of every legislative body to determine who shall sit as its members. With certain qualifications this is true; but can the persons not lawfully returned as members, but claiming to sit, and whose right is contested, vote as members for the purpose of establishing this right? Take the case we are considering. There were fifty-two republicans and fifty democrats enrolled as members. Five others—democrats—claimed the right to sit. They must have voted for Wiltz as temporary speaker or he could not have had a majority. Nor could they have been declared members without also voting on that question if there had been a lawful organization, for in that event there would have been a majority of republicans. The proposition that every legislative assembly is to judge of the qualifications of its members of course assumes that the persons whose right to sit is in question are not to act or vote as members until a lawfully constituted assembly has determined that right. This proposition was perverted and misapplied by speakers at the Cooper Institute.

Mr. SHERMAN. I will also ask the Secretary to read the conclusion of Mr. Stoughton, after a lawyer-like examination of the whole case, as to whether that body thus organized was a legal house.

The Chief Clerk read as follows:

In view of these facts, who will say that this was a legislative body? Who that it had peaceably assembled? It had come into existence by violence and fraud. It had by force and fraud expelled a majority of the lawfully returned members, and had thus deprived them of all participation in the organization of the house. It was a lawless body, forcibly, not peaceably assembled. It held the hall of the house of representatives by violent means, and the five members unlawfully admitted and employed to accomplish this were the instruments by which this scheme had been made effective.

Mr. SHERMAN. That summary shows this whole case. A lawless and desperate minority seized upon the organization of the house when assembled there to organize the house, refused to the majority all parlia-

mentary rights, and then, in violation of the laws of Louisiana, undertook before the organization of that house to swear in five men without a vote, without an examination, without a hearing; and having sworn in those five men in this way, then, presto—change—a vote was allowed! After they had elected a temporary speaker, after they had elected a clerk and sergeant-at-arms and admitted five new members, had half a dozen different *viva voce* votes, against protests, against repeated calls for the yeas and nays, then, after they had accomplished their revolutionary purpose, lo and behold they are ready for a vote! Then a vote was demanded by one of them; a vote was taken before the final organization, and with the five men thus unlawfully admitted they claimed to have a majority, and then they appealed to General De Trobriand to put out the lawless fellows who were making a little fuss!

Let us now examine the question put to me awhile ago, and see what General De Trobriand did do; but first let us see what he did not do. General De Trobriand appeared just as he had done before, with the same number of aids, and with the same uniform, with an order from Governor Kellogg, sanctioned by his immediate commanding officer, General Emory; and what did he do? He went there, exhibited his order, told them that it was a very unpleasant duty, that he was a soldier, and asked Mr. Wiltz (recognizing him to that extent) to point out the five men whom it was his duty to expel from that body—no rudeness, no violence, no force except the force that they themselves had appealed to. What then? Did General De Trobriand eject any man who had a right to vote in that organization? Did he eject any man whose name was on that roll as a member? Did he expel any democrat because he was a democrat, or any republican because he was a republican? No, sir; but he ejected five men who had no right to vote in that organization, whose claims, if they had any, were claims to be decided by the body itself after it should have organized, as contestants or claimants. Five men were then in possession of certificates in due form of law, acting for the very parishes that these five men claimed to represent. Among the lawless acts of violence was to turn out five men who were then in——

Mr. BAYARD. There was no expulsion. They were members from parishes which had not been acted upon by the returning board, and no contestant appeared at all against those men.

Mr. SHERMAN. Perhaps I am mistaken in that particular, but it makes no difference to the argument. Those five men were not on the list; they were not returned by the returning board as members, and their cases were very properly referred to the body itself, when it should be organized. These were the five men, no one of whom had a right to vote in any part of that organization, who were gently expelled.

Mr. BAYARD. May I ask the Senator whether he considers it the duty of General De Trobriand to turn out those five men?

Mr. SHERMAN. I will come to that; I will tell precisely my opinion. This officer did not do this as a partisan. It was not like some of the historic cases where lawless violence at the will of party and for partisan advantage has subverted the law and used military force for that purpose. Nobody could say that of General De Trobriand. He was a gentleman, in every sense of the word, in manner, education, and habit; he had been appealed to by both sides; and we know, from the current history of the country, that General De Trobriand was regarded with great favor by all the people of Louisiana

on both sides of politics. He is simply a military officer seeking to do his duty. There was therefore no partisan warfare waged by him. It was upon the written order of the governor of the State, whose oath required him to enforce the law, that he appeared.

I have seen a great deal of complaint made about the powers of the governor of Louisiana, and I am free to say that I never would vote for a constitution that contains the powers granted to the governor of Louisiana; but it is the constitution of Louisiana, and it must be obeyed, and it must be enforced there. The power given to Governor Kellogg by that constitution is very much greater than is given to the governor of the State of Ohio or to the governor of any other State that I know of. He is armed with discretionary power in many cases where it is not conferred by the laws of other States. This act of De Trobriand was done under the order of Kellogg. We must inquire into the power of Kellogg to issue the order and as to the extent of that power. I will read first a paragraph from article 48 of the constitution of Louisiana:

> The supreme executive power of the State shall be vested in a chief magistrate who shall be styled the governor of the State of Louisiana.

Then after defining the duration of his office, &c., article 59 provides:

> He shall be commander-in-chief of the militia of this State, except when they shall be called into the service of the United States.

Article 65 provides:

> He shall take care that the laws be faithfully executed.

Then his oath is contained in article 100:

> I, (A. B.) do solemnly swear (or affirm) that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; that I will support the Constitution and laws of the United States, and the constitution and laws of this State, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as ——— according to the best of my ability and understanding; so help me God.

This constitution makes the governor of Louisiana not only the chief executive officer and the commander-in-chief of the militia of the State, but requires him to take this stringent oath, and also requires that he shall take care that the laws be faithfully executed. How did Governor Kellogg intervene in this case? It must be remembered that he intervened upon an authority very unusual and very remarkable. Here a majority of the men who were elected to the house of representatives of that Legislature, who appeared there on the 4th day of January, fifty-two all told, signed a written request——

Mr. SCHURZ. Mr. President——

The PRESIDING OFFICER. (Mr. INGALLS in the chair.) Does the Senator from Ohio yield to the Senator from Missouri.

Mr. SHERMAN. I would rather not.

Mr. SCHURZ. I merely want to put this question, whether the Senator calls fifty-two a majority of the men who were elected to the lower house of the Legislature of Louisiana?

Mr. SHERMAN. I say that fifty-two men were a majority of those who had a right to vote on the organization of the house.

Mr. SCHURZ. If I understand the Senator correctly, he said that fifty-two were a majority of the men who had been elected to the lower house of Louisiana.

Mr. SHERMAN. If I said that, my friend is so acute as to have detected it quickly. What I meant to say and what I now say is that

the majority of those who were elected and had the right to sit there on that day, and who were present, made the request of the governor.

Mr. SCHURZ. The Senator then admits that fifty-two were a majority of the men who were elected to the lower house of the Louisiana Legislature?

Mr. SHERMAN. Upon my word, if the Senator thinks that before the people of the United States he can make any headway by that kind of technicality, he has very much mistaken their intelligence and their spirit. One hundred and eleven men were elected; one hundred and two of those thus elected appeared with their legally-constituted certificates, and only one hundred and two—one hundred and two all told; and no man, woman, or child in all the broad limits of the United States of America had any right to participate in that organization except those one hundred and two men, because theirs were the names responded to when the roll was called, and none others by the law of Louisiana could participate. Governor Kellogg only intervened upon the demand of fifty-two men, a majority of those entitled to vote.

Ah, but why did not these fifty-two men send their request to the governor in the ordinary way? Why did they not meet and vote to send their request to the governor? Because a lawless minority had usurped their place in the house of representatives and that lawless minority had called on the military authority to expel practically the majority, for that was the effect of it; and this was the only way in which this majority could speak. Their voice was silent in the usual parliamentary way. The only way they could speak was by signing a paper calling upon the governor of the State of Louisiana, as he would answer to God at the great day, on the solemnity of his oath, to see that the law for the organization of the Legislature of Louisiana was faithfully observed. Mark it: if there was any irregularity in this proceeding, it was an irregularity caused by the men who complain of the execution of this order. If it was not the house that spoke to Governor Kellogg, it was because the minority usurped the house and the majority could only speak by a written statement to the governor; and they made that statement and demanded of Governor Kellogg to intervene.

Now, I will go a step farther. I will say that Governor Kellogg had the undoubted right, it was his bounden duty, whether he lived or died in the effort, to put down that lawless violence when thus called upon by a majority of the men who had a right to control that voice.

Mr. SCHURZ rose.

The PRESIDING OFFICER. Does the Senator from Ohio yield?

Mr. SHERMAN. No; it interrupts my argument. The Senator had his say and was listened to with great respect and attention. Every word of his speech I heard myself without interrupting him; but for some reason I cannot speak here without being continually interrupted.

Any irregularity that occurred, I repeat, was an irregularity caused by the lawless violence of Wiltz; and there was an opportunity for Kellogg to have immortalized himself. Had he been a bold, audacious man, even if he was ambitious, had he gone into the presence of that turbulent house without a single soldier behind him and had compelled those men to listen to the law which directed the organization, to listen to his oath, to listen to the obligations imposed upon him by the constitution, he would have been not only defended but authorized and justified in the use of any force whatever to put down that vio-

lence. My friend from Indiana says he would have been murdered. That might have been true. It only shows still more the dangers of society in Louisiana, the lawless audacity which controls matters there, which would murder the governor because he would resist the usurpation by a minority of a house of the organization of the house. It was one of those occasions where a bold man may impress his name upon history; and I am inclined to think that if he had gone there in that way they would not have dared to murder him. But my friend from Indiana says he would have been murdered, and perhaps he would.

What else did he do? He gave his order. He ought to have called upon the *posse comitatus;* he ought to have called on the police authorities; he ought to have called upon such forces as were within his reach. Why did he not do that? There my friend from Indiana would give a very satisfactory explanation, that in the excited state of feeling in Louisiana he could not call on the constables or the militia. He was commander of the militia; he had power to call upon them to aid him in executing the laws. He could not do it without creating bloodshed and murder; and perhaps that is a good reason. We know very well that such is the state of society in New Orleans that probably any appeal whatever, any attempt by any legal authority either to suppress a riot or to put down lawless violence, especially where politics mingles in it, would probably lead to general war and general bloodshed. That is one of the misfortunes of the state of society in Louisiana. What then? With this letter before him, signed by fifty-two men who had the right to control the organization of that house with the probability that if he entered there in the discharge of his duty he would be murdered, leaving Louisiana without a governor, with the probability that if he called on the militia it would not respond to his call or would not obey his order, that if he called on the constabulary force it would only precipitate a conflict between armed men—under these circumstances of difficulty Governor Kellogg called upon General De Trobriand, and General De Trobriand went there, with a heart that was white and free from offense, without any intention to trample on any man's liberties, in obedience to a lawful call, as he supposed, by Governor Kellogg to put out five men whose presence interrupted the organization of the house of representatives of Louisiana.

My colleague asks me if I approve this thing. I cannot say that I do; but this I say, that I approve it precisely to the extent that the President of the United States approves it, and God forbid that I, on account of my respect to law and my ideas about the use of military authority, should cast ashes upon the head of General De Trobriand who in a time of great difficulty, under circumstances of peculiar and critical urgency, simply did what he supposed to be his duty.

There is the whole case. The President of the United States so states it. There is the whole of it. To call this one of those great historical outrages when the rights of a free people are trampled upon, is simply making a mountain out of a mole-hill. All the violence that was used was compelled by Wiltz, and only enough was used to execute what General De Trobriand believed to be a lawful order of Governor Kellogg in expelling men who prevented the organization of that body.

In addition to that, Governor Kellogg had the undoubted right to call on the President of the United States for the military force of the United States to suppress domestic violence. At that time the Legis-

lature was not organized and could not be organized by reason of the very events that I have narrated. The Constitution of the United States in that case, and precisely in such a case, gives to the governor the power to call on the President to suppress domestic violence, and this order of Governor Kellogg was made in pursuance of that provision of the Constitution, though on account of the urgency of the matter it was not made through a special call on the President of the United States.

Troops being then present under a previous call justified by the general sentiment of the people of this country, they acted at once without a direct order from the President of the United States. I cannot say that it would be right for an officer of the Army, upon the call of Governor Kellogg, without a direct order from the President of the United States, to appear there and enter into that legislative hall and do the duties of a constable. My idea of the Army is that it is an organized force only to speak on great occasions, and then against an armed enemy in its front. I do not think the Army of the United States ought to be used for many of the purposes for which it has been used. I think it ought to be kept intact, free, clear from all political associations or affinities, stand aloof only to meet force with force, and only to suppress violence when called upon to do so in the constitutional way. That was the case here, except that there was no legal order from the President. The circumstances were peculiar. They were imminent. They were urgent. Anybody in Louisiana, any citizen of Louisiana, any portion of the militia of that State would have been perfectly justified, under the call of Governor Kellogg, in doing all that the troops of the United States did. If we place any reliance upon the constitution, it was the duty of the governor to act, and act promptly, but only by a civil or military force under his command. The troops of the United States, in my judgment, ought to have been kept out of that arena; but God forbid, as I said before, that I should cast any reproaches upon General De Trobriand or any other officer of the Army who under these circumstances did what he believed to be his plain duty. What was the result? Nothing except that the majority were restored to their power to organize that house, to pass upon the elections, returns, and qualifications of the members, and to go on in pursuance of law to make laws for the people of Louisiana.

Mr. President, this is all I desire to say about the particular events that occurred on the 4th of January; and I now come to some collateral questions which are necessarily brought into the case, and to which my attention has already been directed by several inquiries made by Senators and also by the general latitude and scope of this debate; and the first one is the action of the returning board.

My colleague and the Senator from Delaware, who must be embarrassed by the difficulties of their position in seeking to defend this lawless and desperate revolutionary usurpation by Wiltz, say that the returning board of Louisiana, according to the report of the committee of the House of Representatives, were guilty of illegal, fraudulent, and improper acts; that they did not do their duty; that they refused to return five men who were lawfully elected. It appears that this board returned that the election of these five men was secured by fraud, violence, and intimidation; that under the law they were returned not elected, but their cases were referred to the house to be passed upon by the house itself. They claim also that the returning board were guilty of fraud, inasmuch as that by the returns submitted to the board there was a democratic majority of

29 in the house of representatives, and they say they were cheated out of that majority, and a return made of 53 republicans and 53 democrats, instead of giving the democrats a majority of 29.

Mr. THURMAN. Not that.

Mr. SHERMAN. I think that is the substance of it. I think the returning board returned 53 democrats and 53 republicans.

Mr. THURMAN. Fifty-four republicans and 52 democrats.

Mr. SHERMAN. The Senator from Louisiana tells me the return was fifty-three democrats and fifty-three republicans, and five men were returned as not elected and their cases referred to the action of the organized house. Here is the case. What then? Suppose we admit your whole charge: my colleague is a lawyer, and has been an able and excellent judge; would he stand up here in the Senate and say that because all these things have been done any portion of that body could go there and with revolutionary violence seize upon the organization, disregard the rights of the majority or minority there, refuse a call for the yeas and nays, refuse a vote, put in five men without a vote, and in many respects violate the law of its organization? I think not. If you admit all that these gentlemen claim, what is the remedy? The remedy pointed out by the constitution of Louisiana, the same that is pointed out by the rule of the House of Representatives of Congress; that the house, when organized, shall pass upon the elections, returns, and qualifications of the disputed persons. The intervention of the returning board is a kind of agency that I am not familiar with. We have no such tribunals in Ohio. We have no such returning board in the sense in which this board existed, with power to refuse men their certificates because of alleged fraud, intimidation, or violence. But that is the law of Louisiana, and this case must be governed by that law. The present law of Louisiana, as I understand, is similar to the law they have had there for a number of years in this particular, for a returning board—a very dangerous and bad tribunal, in my judgment, because if the returning board is controlled by partisan politics, it may do just what these gentlemen say this returning board did. But still there is the law, and these men were bound to obey the law. The law must govern in the proceedings to organize that house; and under that law the men whose names were returned by them alone could vote. But upon what evidence does my colleague say that these things were done? Upon what evidence does he say that the returning board committed a fraud? Upon the statement made by three members of the House of Representatives of this Congress, all highly respectable gentlemen, made upon a short and cursory examination of a few days, made without the presence of the president or any member of that board, so far as appears—certainly without the presence of Governor Wells, an old citizen of Louisiana, who was not present before them; made in haste. Upon this information, no doubt honestly given, because I know each of the gentlemen whose names appear to that report, and I know that neither Mr. FOSTER nor Mr. PHELPS nor Mr. POTTER would sign anything that they did not believe to be true—upon this statement suddenly made by them, on going there in ignorance of all the facts, made however upon their honest responsibility, believing these facts to be true, these charges are alleged. Suppose it to be so, what difference does it make? It does not affect the legal questions involved in the organization of that house; but until you hear both sides of that question is it wise to condemn the board by wholesale.

There is one rule of law which is universal, and that is that every

person charged with the performance of a public duty is presumed to do his duty unless the contrary appear. You cannot go on with a representative government, where all the powers of the government are conducted by agents, unless you give to the acts of those agents a reasonable inference of purity and justice. That is the rule of the law. We are bound to presume that the returning board had a legal basis and a just basis for all their actions. If you cannot rely upon it, it shows that the organization of that board was wrong, that its members were corrupt, or that they grossly violated their public duty. None of these things are to be inferred, nor can they be hastily proven upon the hurried statements of a committee sent there to examine this among a great many other things, without the presence of the five men who were members of the returning board, without the evidence of the president of the board, who it would seem was absent. Although he sent his affidavit, it was not received. I have nothing to say in mitigation of the conduct of the board. If they did what my colleague says, they violated their duty, and ought to be held up to public scorn and contempt; but that must not be presumed. It must not be hurriedly assumed upon a statement like this. We know that at this moment other gentlemen—probably it would be no derogation to the committee who signed the report to say men at least equally able as lawyers, as intelligent and as patriotic as citizens, have gone there to re-examine the conclusions of that committee. But suppose it turns out to be that the statements of this report cannot be varied, does that affect the question? Not at all. It still leaves the law of Louisiana intact; it still gives to those returned by the returning board the power to organize the house.

But, says my colleague, that is yielding everything. There again they assume that the majority of the house thus returned will wrongfully and fraudulently exclude men legally elected. The Constitution of the United States places upon the Senate the power to pass upon the returns of our members. It may be that the Senate fraudulently, corruptly, or with improper motives may reject a man who has been duly elected a Senator; but there is no other tribunal that can pass upon the question from the nature of things. So in the House of Representatives. The Constitution gives to that House the power to judge of the elections, returns, and qualification of its members. I have seen democrats seated by a republican House. I have seen republicans seated by a democratic House. It is to be presumed that these high political bodies will perform their duty according to law. If you cannot base that presumption upon reasonable probabilities, then our Government is not worth a rope of straw. It rests upon the general intelligence and fairness of the majority rather than the minority. So in the house of representatives of Louisiana. What right have these gentlemen to assume that because they have been cheated out of the returns of some of the members, the republican majority returned by the returning board would exclude five men if they were legally elected? I do not believe they would. Indeed I have heard from information, just as we gather it from others, by those who were present, that there is scarcely a doubt that whatever might have been the disposition of a majority of the republican members returned, there were enough men among them of character and fairness and justice who would have fairly decided upon any case that might be brought before them.

Mr. THURMAN. I do not wish to interrupt my colleague even for a moment, because he dislikes to be interrupted; but I want to ask him if he does not know that what is called by the republicans the

Legislature of Louisiana, that same body that professed to elect Mr. Pinchback on last Tuesday, have actually, without any investigation whatever, seated the five men who were defeated for the seats that were occupied by the five men who were expelled by De Trobriand?

Mr. SHERMAN. If that be so, I hope that the republican majority in this Senate will do its duty when it comes to examine the question referred to the Committee on Privileges and Elections. But is it to be presumed that the majority will not do its duty? Here the arraignment would go directly to us that we are not to be trusted in passing upon the Pinchback case, because, forsooth, we may trample upon the rights of the minority!

There is no rule which governs the organization of parliamentary bodies more universal in its application than this: that although returning boards and reports from secretaries of state and other merely executive officers may in the first place prepare a list that is not just, not fair, not proper under the circumstances, yet the power of the house, it is presumed, will be exercised always to seat men who have been lawfully elected, and will not in any case expel a man who has been elected from his seat, although he is in the minority. Therefore I dismiss from my view of the case the action of this returning board, first, because we have not yet sufficiently developed the facts in the case; and next, even if the facts are shown to be as now claimed by Senators on the other side, they will not justify in the slightest degree or palliate any of this lawless violence, but we must rest upon presumption that a majority duly returned will act fairly and honestly upon the returns of the members who have been elected.

There is another thing: This case is constantly affected and shadowed by the doubts that rest on the election of Kellogg. That ought to be dismissed. Whether Kellogg was lawfully elected or wrongfully elected, probably will never be ascertained, because, according to the report of the committee of this body, the condition of fraud, violence, intimidation, and wrong that prevailed in 1872 will forever prevent any solution of the question as to whether Kellogg was legally or illegally elected, whether McEnery or Kellogg was elected. It is one of those questions that probably we cannot decide. It is a painful question to me. I never have voted yet to recognize the results of the Louisiana election of 1872, because, after reading the able reports that were made by the majority and minority of our committee, I was totally at a loss to say whether or not Kellogg was elected. But Kellogg was there, recognized by the local authorities, recognized by the supreme court of the State of Louisiana, by judges elected before the election occurred, is now recognized by the President of the United States, recognized also by the action of the House of Representatives in admitting members who were elected on the same ticket with him. He being recognized by all these departments of the Government, whatever may be our opinion in regard to the election of Kellogg, no one can question his right while acting *de facto;* as governor to exercise all the powers of governor, until his right to do so may be disputed, we cannot measure his powers as governor at any less gauge than if he had been elected without dispute or controversy as to the majority. We have nothing to do with the case. He is there in possession of the executive authority, armed with the powers given him as governor. He appoints judges; he appoints nearly all the officers of the State. They are there now in the enjoyment of their offices. He has been recognized by the supreme court of the State in two or three decisions. We cannot overthrow his government without the most careful examination: and until we do overthrow it by some

legal act we must recognize him as governor and give to his acts all the force and all the consequences of the acts of a lawful governor.

Now I come to another point upon which a great deal of declamation has been expended, and that is the telegrams of Sheridan. It is now admitted and known to all the people of the United States that these honorable Senators who would not knowingly do injustice to any one, high or low, did do the grossest injustice to General Sheridan and the President of the United States. All over this country the cry of a military despot, a tyrant, a usurper, was rung and repeated against General Grant and General Sheridan. It turns out, when we have the facts, that General Grant did not know any more about the events of the 4th of January than we did; that all the orders he had given were legal orders, approved and sanctioned by public opinion, in consequence of the attempted revolution in September, 1874. This *Canute*, this sudden violence, was a surprise to him, and he heard of it with the same sentiments that we felt when we read the dispatches on the morning of the 5th. All was new to him, and he was in no sense responsible. So with General Sheridan: he was there, not desiring, not intending to assume command, when suddenly Wiltz seized upon that organization, put the brand to the burning pile, aroused the whole population there, and Sheridan under the excitement of the moment sent his indignant telegrams. What are they? This brave soldier, who has carried our banner in many a hard-fought field, and nearly always to victory, one of those whom the American people have been delighted to honor—what has he done, in the name of Heaven, that brings down upon him now all the reproaches of party heat and party hate? Let us see. No act, remember, of his; he did not participate in General De Trobriand's act, whatever it was; his command commenced at nine o'clock that night, at a time when a fever heat prevailed in New Orleans, when at any moment armed bodies of men might be brought into collision. Being then there, a soldier of superior rank, armed with authority, he assumed the responsibility, and from that time forward he is responsible for what he has said and done, but up to that time he is not for anything done there. Let us see what he said in his first telegram, because he has actually done nothing. Here is the dispatch, written within probably an hour after he assumed command, because it seems to have been received here at 11.45 p. m. on the 4th of January:

W. W. BELKNAP,
Secretary of War, Washington, D. C.:

It is with deep regret that I have to announce to you the existence in this State of a spirit of defiance to all lawful authority and an insecurity of life which is hardly realized by the General Government or the country at large. The lives of citizens have become so jeopardized that unless something is done to give protection to the people, all security usually afforded by law will be overridden. Defiance to the laws and the murder of individuals seem to be looked upon by the community here from a stand-point which gives impunity to all who choose to indulge in either, and the civil government appears powerless to punish or even arrest. I have to-night assumed control over the Department of the Gulf.

P. H. SHERIDAN,
Lieutenant-General United States Army.

This is a terrible statement of facts. If they existed, it was the duty of Sheridan to communicate them, however much it might stir up the feelings of others. If they are false, then General Sheridan has either ignorantly or willfully deceived and misled the President upon a most vital point. What are the facts? When I read that telegram, I must confess that I shuddered, because, if true, it was a fearful picture of demoralization in Louisiana; if false, it was an equally fatal error on the part of Sheridan, an Army officer, to state such facts

if they did not exist, and unless he knew that they existed. Now, read that telegram in connection with the full information we have of the condition of affairs in Louisiana; and I tell you, sir, that after reading a later telegram of his, on a subsequent page of this document, if that is a statement of what has actually occurred there, where dates, and figures, and amounts, are given, then I turn back to the telegram of General Sheridan on the evening of the 4th of January, and I say that telegram is true, every word of it. You may read these two telegrams together. My colleague cannot make light of this. There are the words of a soldier in black and white, like an indictment stated with more than the precision of a lawyer. If the telegram of the date of January 10, 1875, is true about Louisiana, then every word that General Sheridan said in his telegram of the 4th is true.

Mr. THURMAN. Where did he get the proof from?

Mr. SHERMAN. Do you deny any fact he asserts?

Mr. THURMAN. Palpably——

Mr. SHERMAN. I ask the Secretary to read that, and I hope Senators will see how much the statements made by him rest upon historical facts, records which cannot be denied; and if that telegram is true, I say that the first telegram is true.

Mr. THURMAN. Where did Sheridan get his knowledge?

Mr. SHERMAN. Where we get our knowledge—from facts; it makes no difference, if he stated the facts.

The Chief Clerk read as follows:

NEW ORLEANS, *January* 10, 1875—11.30 p. m.

Hon. W. W. BELKNAP,
Secretary of War, Washington, D. C.:

Since the year 1866 nearly thirty-five hundred persons, a great majority of whom were colored men, have been killed and wounded in this State. In 1868 the official record shows that eighteen hundred and eighty-four were killed and wounded. From 1866 to the present time no official investigation has been made, and the civil authorities, in all but a few cases, have been unable to arrest, convict, and punish perpetrators. Consequently, there are no correct records to be consulted for information. There is ample evidence, however, to show that more than twelve hundred persons have been killed and wounded during this time on account of their political sentiments. Frightful massacres have occurred in the parishes of Bossier, Caddo, Catahoula, Saint Bernard, Saint Landry, Grant, and Orleans. The general character of the massacres in the above-named parishes is so well known that it is unnecessary to describe them.

The isolated cases can best be illustrated by the following instances, which I take from a mass of evidence now lying before me of men killed on account of their political principles: In Natchitoches Parish, the number of isolated cases reported is thirty-three; in the parish of Bienville the number of men killed is thirty; in Red River Parish the isolated cases of men killed is thirty-four; in Winn Parish the number of isolated cases where men were killed is fifteen; in Jackson Parish the number killed is twenty; and in Catahoula Parish the number of isolated cases reported where men were killed is fifty, and most of the country parishes throughout the State will show a corresponding state of affairs. The following statements will illustrate the character and kind of these outrages:

On the 30th of August, 1874, in Red River Parish, six State and parish officers, named Twitchell, Divers, Holland, Howell, Edgerton, and Willis, were taken, together with four negroes, under guard to be carried out of the State, and were deliberately murdered on the 29th of August, 1874. The White League tried, sentenced, and hung two negroes on the 28th of August, 1874. Three negroes were shot and killed at Brownsville, just before the arrival of the United States troops in this parish. Two white-leaguers rode up to a negro cabin and called for a drink of water. When the old colored man turned to draw it, they shot him in the back and killed him. The courts were all broken up in this district, and the district judge driven out.

In the parish of Caddo, prior to the arrival of the United States troops, all of the officers at Shreveport were compelled to abdicate by the White League, which took possession of the place. Among those obliged to abdicate were Walsh, the mayor, Rapers, the sheriff, Wheaton, clerk of the court, Durant, the recorder, and Fer-

guson and Renfro, administrators. Two colored men, who had given evidence in regard to frauds committed in the parish, were compelled to flee for their lives, and reached this city last night, having been smuggled through in a cargo of cotton.

In the parish of Bossier the White League have attempted to force the abdication of Judge Baker, the United States commissioner and parish judge, together with O'Neal, the sheriff, and Walker, the clerk of the court; and they have compelled the parish and district courts to suspend operations. Judge Baker states that the white-leaguers notified him several times that if he became a candidate on the republican ticket, or if he attempted to organize the republican party, he should not live until election.

They also tried to intimidate him through his family by making the same threats to his wife, and when told by him that he was a United States commissioner, they notified him not to attempt to exercise the functions of his office. In but few of the country parishes can it be truly said that the law is properly enforced, and in some of the parishes the judges have not been able to hold court for the past two years. Human life in this State is held so cheaply, that when men are killed on account of political opinions, the murderers are regarded rather as heroes than as criminals in the localities where they reside and by the White League and their supporters.

An illustration of the ostracism that prevails in the State may be found in a resolution of a White League club in the parish of De Soto, which states "that they pledge themselves under (no?) circumstances after the coming election to employ, rent land to, or in any other manner give aid, comfort, or credit to any man, white or black, who votes against the nominees of the white man's party." Safety for individuals who express their opinion in the isolated portions of this State has existed only when that opinion was in favor of the principles and party supported by the Ku-Klux and White League organizations. Only yesterday Judge Myers, the parish judge of the parish of Natchitoches, called on me upon his arrival in this city, and stated that in order to reach here alive he was obliged to leave his home by stealth and after nightfall, and make his way to Little Rock, Arkansas, and come to this city by way of Memphis.

He further states that while his father was lying at the point of death in the same village, he was unable to visit him for fear of assassination, and yet he is a native of the parish, and proscribed for his political sentiments only. It is more than probable that if bad government has existed in this State it is the result of the armed organizations, which have now crystallized into what is called the White League; instead of bad government developing them, they have by their terrorism prevented to a considerable extent the collection of taxes, the holding of courts, the punishment of criminals, and vitiated public sentiment by familiarizing it with the scenes above described. I am now engaged in compiling evidence for a detailed report upon the above subject, but it will be some time before I can obtain all the requisite data to cover the cases that have occurred throughout the State. I will also report in due time upon the same subject in the States of Arkansas and Mississippi.

P. H. SHERIDAN,
Lieutenant-General.

Mr. SHERMAN. Here is the statement of a high officer of the United States that the people of this country will believe if my colleague does not. He is there on the ground. I ask if he cannot learn the facts better than my colleague who sits here in the Senate Chamber, where we are all peaceable and quiet, and where our disputes are only wordy, instead of the bitter disputes they have in Louisiana. General Sheridan states in that document historical facts already proven by testimony upon our records, like the bloody story of Colfax, like the Coushatta murder, the murder of judges and attorneys in the discharge of their duties. General Sheridan also tells you what he knows himself from persons whom he has communicated with there. Sir, I say to my colleague in all kindness that if that dispatch of General Sheridan be true, as I fully believe it is, and it would not have been made up except upon a strong showing, then all that has been said of Louisiana has never been sufficient to denounce as strongly as they ought to have been the atrocities there committed.

Mr. BAYARD. Does the Senator give any effect at all to the response of the merchants and the leading clergymen of every denomination in the city of New Orleans?

Mr. SHERMAN. I will come to that in a moment; but I say this——

Mr. BAYARD. And the report of the sub-committee of the other House, all northern men?

Mr. SHERMAN. I know very well how in the state of things in Louisiana such denials come from the clergy in New Orleans. Do they deny the Colfax murder? Do they deny the murder of judges? They simply say that a state of lawlessness does not exist there. What they deny is not Sheridan's second dispatch but Sheridan's first dispatch, and that dispatch is simply a declaration that lawlessness prevailed. Now, I ask, if the second dispatch is true, does not lawlessness prevail? I do not want to go into the particulars, but these are historical facts. These men may meet together in chambers of commerce, though in one case they struck from their roll a man who told the truth; they may meet in their conventionals, these religious denominations, and preach and deny these general facts; but when they rest on purely historical documents so easily proved as physical facts, the people of the United States will believe them, and will attribute these denials either to the careless ignorance of those gentlemen who utter them or to a desire to avoid the terrible indictment thus made against the State of Louisiana.

Mr. WEST. If the Senator will allow me to interrupt him a moment—I was not paying attention a few moments ago, but I understood that the Senator's colleague asserted that five men from these disputed parishes have been admitted by the republican members of the Legislature.

Mr. THURMAN. I have seen it so stated.

Mr. WEST. The Senator is misinformed. There were three out of the five, and those three came from parishes that were returned as republican.

Mr. SHERMAN. Now, I want to go a little further. The first dispatch I entirely approve every word of upon the information we have, and I have no doubt we have as much information as is known anywhere. Now, in regard to other telegrams of General Sheridan which have been commented upon with great violence and great injustice, let me read them. On the 5th of January, the day after these transactions, he telegraphed:

W. W. BELKNAP,
Secretary of War, Washington, D. C.:

Please say to the President that he need give himself no uneasiness about the condition of affairs here. I will preserve the peace, which it is not hard to do with the naval and military forces in and about the city; and if Congress will declare the White Leagues and other similar organizations, white or black, banditti, I will relieve it from the necessity of any special legislation for the preservation of peace and equality of rights in the States of Louisiana, Mississippi, Arkansas, and the Executive from much of the trouble heretofore had in this section of the country.

P. H. SHERIDAN,
Lieutenant-General United States Army.

That is, "If Congress will do so and so, I will do the rest." Very well; I have no doubt that if Congress would do as General Sheridan here suggests he would do the rest; but Congress will not do it, cannot do it, ought not to do it, and that is the end of it. If General Sheridan is to be punished for bad advice given to Congress, God save all the people of the United States who have sent us here schemes enough to ruin the whole Government a thousand times over. Is General Sheridan to be punished for a telegram based upon what Congress might do when he suggests "If Congress would do so and so, I will do so and so?" This telegram has been spread over the country as evidence on the part of Sheridan of an incendiary spirit which would burn the city of New Orleans and scatter havoc and devastation over the whole country; and my friend from Maryland [Mr. HAMILTON]

became so indignant and so eloquent about this that I really did not know what would become of him and of us all. Here was a mere suggestion that if Congress would do so and so, he would do so and so. He can perform what he agreed to do, but we cannot do what he proposed that we should, and nobody supposes we could. On the contrary, Congress has exercised its power in dealing with these turbulent and lawless Ku-Klux organizations by making law, and that law has been enforced in the courts aided by military authority. That is the only remedy we can give in such cases, and that remedy we have given.

Now let me read the next dispatch:

W. W. BELKNAP,
Secretary of War, Washington, D. C.:

I think that the terrorism now existing in Louisiana, Mississippi, and Arkansas could be entirely removed and confidence and fair-dealing established by the arrest and trial of the ringleaders of the armed White Leagues. If Congress would pass a bill declaring them banditti, they could be tried by a military commission. The ringleaders of this banditti, who murdered men here on the 14th of last September, and also more recently at Vicksburgh, Mississippi, should, in justice to law and order and the peace and prosperity of this southern part of the country, be punished. It is possible that if the President would issue a proclamation declaring them banditti no further action need be taken except that which would devolve upon me.

P. H. SHERIDAN,
Lieutenant-General United States Army.

Here again is a repetition of Sheridan's advice: If Congress would declare them banditti, then he would put them down; and if the President would issue a proclamation, he might probably be able to do the same; and he says:

The ringleaders of this banditti, who murdered men here on the 14th of last September, and also more recently at Vicksburgh, Mississippi, should, in justice to law and order and the peace and prosperity of this southern part of the country, be punished.

Should they not be? Those scoundrels—I will not use any harsh word, it is not necessary—those lawless men, armed and organized in violation of the law of the State of Louisiana, who subverted its government on the 14th of September, ought they not to be punished? They killed one hundred men. Is that no crime? They still possess the arms that they stole from the arsenal, according to the statement of the Senator from Louisiana. Is that no crime? Is it no crime to have within the State an armed organization sworn to overthrow the State?

The President of the United States thought this ought to be punished, and he did all he could by issuing his proclamation and saying, "Gentlemen, disperse in five days or I shall be called upon to perform my constitutional duty," and they dispersed. But does that make their crime any the less? No, sir; they are guilty of murder, and they ought to be tried and punished.

But the use of the word "banditti" gives offense to gentlemen, and it has been said that General Sheridan called the whole people of Louisiana banditti. He did not do it. He says the ringleaders of the White League are banditti. "Declare them banditti, and I will settle them." "Bandit" is a strong word; but I have been looking at the dictionaries to see whether or not General Sheridan was exactly right in using that word. I have taken the definitions of all the standard authorities; and let us see whether the acts I shall mention make these men banditti:

BANDIT. One declared to be banned, banished, exiled, outlawed; an outlaw.—*Richardson.* (Best English authority.)

> No savage fierce, bandit, or mountaineer
> Will dare to soil her virgin purity.
>
> *Milton.* (Comus.)

Who are they who can be said to be governed by laws of their own making? I never heard or read of any such, except, perhaps, among pirates *and other banditti*, who, trampling on all laws, divine and human, refuse to be governed in any other way than by their own licentious regulations.—*Beattie.* (Moral Science.)

BANDITTI. Persons who live by rapine, and find themselves in open revolt against the laws of the country.—*Encyclopédie du XIX^e. Siècle.* (French.)

In Italy the banditti are very numerous and form a regular society, subject to a formal organization.—*Ibid.*

BANDITTI, (Italian). A band of robbers, outlaws, or ruffians.—*Worcester.*

BANDITTI. Men outlawed—robbers.—*Johnson*, (edited by Latham.)

A Roman sworder and banditto slave
Murdered sweet Tully.
Shakespeare. (The only case of its use in his plays.)

BANDIT; plural, BANDITTI. An outlaw; also, in a general sense, a robber, a highwayman; a lawless or desperate fellow.—*Webster.*

Now, let us look and see whether these men are banditti within the meaning of the word. He was speaking of the Ku-Klux, the white-leaguers; and as the Ku-Klux now have been pretty well developed, we know what they were—an armed band, sworn in secret, concealed, doing murder by night, robbing, plundering, crucifying; yes, nameless crimes, which dare not be uttered, were committed by these bandits. The bandit of Italy, where the word came from, only captures the rich. The men whom the Ku-Klux plunder, as they say, are the poor. The Italian bandits stopped the rich priest or nobleman and made him pay a good, heavy ransom, but they never capture the poor, the ignorant, and the lowly. So the Spanish bandit always deals out something like mercy or something like justice, and his punishment depends upon the ability of the person to pay. If he has nothing to pay, he is treated with a night's rest and good fare and sent to his home again. We had in English history a few hundred years ago another kind of bandits called the "merrie men of Sherwood," Robin Hood and Friar Tuck and that class of bandits. They always, like the Italian bandits, captured rich priests, levied contributions on monasteries and castles, and occasionally made a very big haul; but the justice administered at Sherwood was the justice of honesty. The poor were always protected; and yet they were English bandits or outlaws.

What are these Ku-Klux? They are just as much worse than the Italian bandit or the Spanish bandit, or the English bandit, as robbery of the poor is worse than robbery of the rich, as murder of the defenseless is worse than of the armed, as murder by night, under concealment and disguise, with the weapons of the coward, is than in the bright daylight, when the breast is presented to the lance of the enemy. Why, sir, for the Ku-Klux, as they have now been developed, the word "bandit" is too respectable. I have here a report, called "The Key to the Ku-Klux: individual report and revelation, by Edward A. Pollard, of the condition of the South." He is the historian of the southern rebellion, a southern man in every sense of the term. I will read what he says of the Ku-Klux, and see whether they and their lineal descendants, the White Leagues, are banditti or not. This was printed in 1872:

It is no longer questionable that there exists in the South a very detestable sort of lawlessness banded under the name of the Ku-Klux, and committing various crimes, even to the extent of murder; this is *res adjudicata.*

There is the admission that they are lawless bands of murderers and outlaws. If they be not banditti, then I do not know what it can

be; but I will read a little further. He goes on to show that this organization grows out of hostility to the negro, and then proceeds:

They never omit an opportunity to strike at the black man, and that, however differing in other respects, they all unite in persecuting the negro. This is their secret bond of sympathy, the common ground of all the varieties of the Ku-Klux, the true explanation—

Mark the words—

of a parti-colored conspiracy in the South that, at once occult and shifting, has by its various disguises and transformations confused criticism and for some time baffled even the most searching and determined investigations.

Again:

The writer thinks enough so far has been given of the description of the Ku-Klux to establish its true character, and to strip, alike, from it, on the one hand, its own flimsy disguises by which it has attempted to impose upon public toleration or allowance, and, on the other hand, the weak pretenses by which the Federal Government has sought to construe it as incipient treason, and to magnify it into an occasion for martial law and other machinery of despotic interference and usurpation. This mysterious order in the South, which has so disturbed the imaginations of the country, turns out to be a very vulgar and ordinary thing—hateful enough, but not quite so fearful as the fancy of alarmists or the design of politicians had made it. It is not a knight with his visor down, nor a disguised missionary in great public affairs—there is no romance about it; *it is only a vulgar, skulking foot-pad and murderer, to be ruthlessly hunted down and exterminated without compunction or mercy.*

Are not those bandits? I think General Sheridan must have been reading this book, not only for his epithet but for his remedy. I will read a little further. Here is a single case given by Mr. Pollard that in atrocity I think passes anything I ever read. It seems to me a horrible atrocity, and yet it is written by a gentleman who is endeavoring to induce the southern people to put down the Ku-Klux:

The bravery which could kick in the heart a poor manacled negro or grind under its heel the torn, bloody face of a fallen victim; which had the nerve to jeer at the last dumb agonies which attend the ever unknown, unutterable mystery of death; which was capable of such scenes as that related to us by an eye-witness of one of the executions of the Ku-Klux, where, when the victim was swinging from the limb of a tree, one of his murderers leaped out of the crowd and by a sudden feat of activity vaulted on the shoulders of the dying man, so as by increase of weight to tighten the grasp of the rope and insure its work, and, amid huzzas at his agility, sat there, crouched and grinning like a demon, until the unruly and struggling body beneath him was still and he was sure that his knees pressed only a breathless corpse.

That was an organization in the Southern States. I ask you if they were not banditti, and was not Sheridan right? I say, sir, that the atrocities of these men always stirred my blood. I do believe now from the best information we have, although it is not as full and complete as I hope it will be made, because we ought not to act hastily upon insufficient information, that the White League is but the same thing over again. These lawless acts of violence which have made a bloody page in the history of Louisiana, which have written on that record contained in the telegram of Sheridan a tale of atrocity that seems more like a record of some period of the Middle Ages, a record partly described here by the chosen author of the History of the Southern Rebellion—I tell you, gentlemen, that such atrocities by such men demand not only the name which has been given by General Sheridan of "banditti," but they demand of us the exercise of every power of the General Government that we may lawfully and constitutionally exercise to put down and exterminate the men guilty of them.

The error of General Sheridan's advice was that, not being a lawyer or statesman but a soldier, he probably assumed that the Government

would have the power to deal summarily with all these desperadoes that he called banditti. We must deal with them according to law, but in some way or other we must put an end to these atrocities, or else the very name and fame of republican institutions will be a by-word and reproach. Sir, there is that in these lawless acts of violence that not only arouses the sympathy of mankind for the victims, but the stern condemnation of the actors by every just man; and I know that my fellow Senators here on the democratic side feel that all these outrages are wrong and must feel as I express myself; but all these outrages are committed in the name of and for the benefit of the democratic party. If that day should come to which many of you look forward with hope, when the democratic party shall be in power in this Government, then one of two things will be true: either the blacks of the South will be turned over to the tender mercies of these men, or you will have again the fires of rebellion kindled in our midst.

We have sworn, in taking our oaths to maintain the Constitution of the United States, to secure to all the people life, liberty, and property. We are as much bound to secure the emancipated blacks life, liberty, and property as we are bound to secure them to our own home and kindred. We must do it, or this Government is forever disgraced. I would not so dread the accession of the democratic party to power but for the fear that springs in the minds of hundreds of thousands of good people of this country that you would not have the power to resist the overwhelming and controlling influence of the very bandits whom I have been characterizing.

Mr. BAYARD. I wish to understand whether the Senator——

The PRESIDING OFFICER. Does the Senator from Ohio yield?

Mr. SHERMAN. I cannot refuse to yield to a question, but I would rather not.

Mr. BAYARD. Go on.

Mr. SHERMAN. I say then that while I wholly disapprove of the remedies proposed by General Sheridan—and he simply submitted them to the Congress of the United States—yet after a sober review of such papers as I have before me, which I could accumulate until the sun sat and rose again, furnished me by my honorable friend on my right, [Mr. SCOTT,] who was chairman of the committee on the Ku-Klux organization but I will not weary the Senate with them, I insist that something must be done to suppress these White League manifestations. This White League organization is of the same affinity as the Ku-Klux. I had a document here which shows by the admission of some southern men that the White Leagues and these other associations sprang out of the Ku-Klux. The Ku-Klux were suppressed by the law, which was enforced in some of the States, and they abandoned it or probably abandoned it partly on the urgent appeals of such men as Mr. Pollard, who denounced them as a great disgrace against civilization. But the White League comes in, armed, organized, and disciplined, sworn to overthrow the State government of Louisiana. They say they are for protection. We know they are not. What would my colleague and I feel if the laws of the State which we have the honor to represent had not the power to suppress at once any military organization aimed at its life? We boast that we represent here three millions of people, peaceful, quiet, and happy, who differ about everything and have the right to differ, who speak their minds boldly and freely, a community that we are proud to represent; and yet, if any of these things were brought home to the knowledge of the democrats in Ohio, and they could hear and see that by the ascendency of demo-

cratic rule there would be a revival and an encouragement of acts of atrocity like these, they would shrink from the enterprise, however desirable it might be in other respects. Sir, you will have to convince the northern people that this story is not true. You cannot do it, my worthy colleague, by sneers or smiles; it must be done by sober facts, because here are indictments which cannot be answered lightly.

Now, Mr. President, I wish to correct a misapprehension that might grow out of my remarks denunciatory of the White Leagues and the banditti. I do not say that all the people of Louisiana are of that mode of thinking at all. I know that we republicans sometimes neglect to give to these people in their present condition due consideration for some of the circumstances by which they are surrounded. In the first place, in Louisiana the war has left its excitement; and some of the scenes of the war in the Red River country, in this very Conshatta region on the upper part of Red River, and in New Orleans, have left great animosities, and we cannot expect these to die away in a moment. We must take that into consideration in viewing the conduct of the people of Louisiana. Besides, they have a mixed population. We know that there is a portion of the population of French descent, a portion of Spanish descent, many and probably a majority of colored people, some from foreign lands, some from our own Northern States, some from other Southern States. Probably there is no portion of the people of the United States that has a more mixed origin than the people of Louisiana. In all cases that tends to promote violence, because sometimes speaking different languages they cannot understand each other; sometimes being educated in different lands and under different institutions they cannot appreciate the institutions under which we live. All these things are to be considered.

They have to encounter another great difficulty in the novelty of former masters and slaves living together as freemen. This we know by all history is a most difficult problem. Those who were once slaves, whose wives and children were bartered and sold like sheep, are now citizens. The masters have been impoverished; they have lost their slaves; they have lost the use of their lands; all their labor is broken up. All these things are to be considered, and we must not overlook them. We must not therefore expect from them the same orderly regularity, the same freedom from violence and force, that we should expect in a stable, orderly people like the people of Ohio or New York. All the sources of wealth, are dried up. When I was there last winter I conversed with gentlemen of all political parties, and saw the great change in the value of their property and the amount of their income. Some families had incomes dependent upon the rents of real estate in New Orleans, and the real estate would hardly pay the taxes, and they were reduced to poverty, hardly able to gather money enough to pay their taxes. All that creates acerbity and bitterness of feeling, and no one felt it more than I did at that time. Thoughtful men I say should give heed to all these discouragements and difficulties; but after all, considering them all, we have a right to ask of these people to respect the law, to be obedient to the law. If they have a majority, in the name of God let them have the power of the majority. I would not, I am sure, and I do not believe any of my fellow Senators would, seek to deprive any State of the right to be governed by its own people, by home government, as they call it. What we do say is that they shall not trample down the rights of others; that when they are exercising their own right in voting as they please, electing democrats,

electing confederate generals if they please, anybody they choose, they must not trample down the rights of the wards of the nation, who have been emancipated by our policy and by our laws. Equal rights, equal privileges, equal facilities for education, for life, for liberty, and the acquirement and enjoyment of property—that we demand; and in the name of God and by the agency of the republican party we will have it sooner or later. There is no doubt about that.

I will not now dwell upon the remedy. I intended to do so, but I am already too wearied to enter upon it. But I do say that the Senate ought now to take up this matter in a dispassionate way and do equal and exact justice to these people. If a democratic house was elected there last November lawfully and fairly, in the name of Heaven given them the organization, requiring them however to organize according to law, to obey the law and not obtain it by lawless violence. If they get the control of the house in a regular and legal way, let them have it. The republican party is strong enough and I hope brave enough to do justice to our political adversaries. If, as I honestly believe, their success will be an unmixed evil to our country, it can be easily repaired, and the future is all before us. Then let them secure to all the people of Louisiana equal and just rights, and let us hear no more of the wrongs, outrages, and murders that have wronged the State of Louisiana. Why can they not live in peace? I cannot conceive of a state of society where a whole population is overawed and intimidated, as undoubtedly the negro population are to a very large extent in many parishes of that State, where murder can be committed without punishment. The mere statement that a thousand murders—only take one-third of what General Sheridan says—that a thousand murders have been committed in Louisiana and not a single man punished for them is a fact so atrocious, so terrible, so damnable, that I can hardly believe it. Yet there it is. How that matter occurred at Coushatta, how the people there, democrats and all, did not rise and follow the murderers and take instant vengeance on them, or at least secure them and try them before the courts, I cannot imagine. Yet four or five young men from the North who went there with capital, who went merely to build up a little village, were suddenly broken up and murdered after they had surrendered. The murderers violated even the code of honor which always secures a man who surrenders safety. After these men had surrendered and were on their way from the country on the road to Shreveport, they were murdered.

Mr. THURMAN. Why were the murderers of the Italian miners near Pittsburgh not punished?

Mr. SHERMAN. My friend calls attention to a fact that I did not know. In the Northern States when crimes of this kind are committed they are always dealt with and punished, and if not they are subject to denunciation. Sometimes poor human nature will yield to a sudden impulse and commit an atrocious crime, rarely though, in a community where law and order are observed. But does that explain the universal lawlessness that murders over three thousand people in a few years in a small population? Look at the lawless murder that occurred at Colfax where fifty or sixty negroes were killed after they surrendered. Look at the murders of judges and and prosecutors? I hope my colleague will not bring up the occasional crime that is committed in the Northern States to justify or palliate or extenuate any of the offenses. In Ohio when crime is committed, although sometimes it may have been induced by strong feeling and excitement, like a recent case that occurred near Urbana where a man was un-

lawfully and improperly killed by a mob under the most gross and terrible provocation that could move the human heart—when such things occur, they must be only incidental cases rarely happening in a community like that, but when they do happen the whole population, democratic and republican, rises up to put down and punish everybody who violates the law. But it is not so in the Southern States.

If I have not misread the history of those States, (and certainly I have no desire to heap coals upon their heads, no desire to be unjust to them,) if I have read aright the history of those States as depicted by investigations made by authority of Congress, there has existed a state of lawless violence that has no counterpart in any history I know of. There may be one remedy. These people may submit to the democratic party and produce a kind of peace, but it is not the peace of equality of rights; it is not the peace that your Constitution guarantees to every man; it is the peace of despotism, of violence, which never will give you the peace of prosperity, wealth, education, and progress. What we insist on is, that having by our Constitution made all slaves free and promised all the protection of the law, they should be protected in every right. When one of them is killed, his murderer should be tried and punished just as the murderer of a white man would be tried. If they are plundered and robbed by gangs of outlaws going to their poor cabins, as occurred in one case recently in Tennessee, where they fired into a cabin and killed a poor school-mistress, whose only crime was that she had put up a little school in the neighborhood—when such things occur, the instinctive spirit of the mass of the whole people of all parties should prompt them to see that the guilty are punished. I have no doubt that this is the sincere wish of many good men in Louisiana. When I was there a year ago I saw intelligent merchants, good men, men whose intelligence and ability would enable them to pass anywhere in the world as gentlemen, and in conversing with them they would speak freely of these things. They never denied the atrocities that had been committed. They did not do what has been done in the Northern States a thousand times over. They admit them, but palliate them, and claim that they are utterly powerless to prevent them. Such was the feeling often expressed and with it a generous longing for peace. I saw gentlemen in Louisiana who belonged to different parties, some of the clergy, some merchants, some bankers, some planters; I had the pleasure of enjoying the hospitality of two of the most intelligent sugar-planters. These gentlemen did not deny the outrages of which we have heard, nor did they defend them. They told me the unhappy situation in which they were placed. Society was disorganized and demoralized by the results of the war. I felt for them from the bottom of my heart. Many causes contributed to their discouragement. When they denied that Kellogg was elected, and complained of all the successive governments installed over them, they freely divided the responsibility for their unhappy condition between the lawless crimes and recklessness of white men, the ignorance of the blacks, and the rapacity of plunderers who fatten where lawlessness prevails.

There are a great many lawless young men springing up in Louisiana as well as in other Southern States without apparent employment. Their condition in life is greatly changed by the results of the war. They are the men who fill your Ku-Klux Klans and White Leagues. They have the spirit that is excited by youth and madness, and it is they who make these forays and no one punishes them, and the few

good, sober, older men have no power to control them. The power of the South and the power of the democratic party there rests mainly with those young men who were in the confederate service and are now to some extent deprived of means, deprived of employment, with their homes broken up by the freedom of the slaves and the sale of their lands. These things are to be considered. All we ask of them is that they will obey the law, execute the law, respect the life and property of all, and if they have a majority they shall have the power. That is all we ask, and we demand and will have it.

The republican party in its long administration of this Government has never been animated by a desire of depriving any man of any right conferred upon him by law. Our long struggle has been to secure to every man the rights and privileges of freemen, and that whether he be rich or poor, learned or ignorant, white or black. Supported by the people, we have written their rights in the Constitution of the United States. We will demand the faithful observance of this Constitution in all its parts and with all its amendments, and if this is accorded by the democratic party in truth and in fact, our political contests will quietly drift into the minor struggles of men for office or of questions of political economy, which only affect wealth and not life. I do with all my heart respond to the peroration of a speech made the other day by the Senator from Georgia [Mr. GORDON] for peace, harmony, and good will. He says he is heartily sick of all this stirring up of bad passions. So am I. But they never will rest at your bidding until all men, black or white, native or naturalized, from the North or the South, can go freely and safely anywhere within the limits of the United States and enjoy his rights as a citizen. Such has not been the case in the South. And until then the struggle will go on by the party that upheld our flag in the civil war, that emancipated all slaves, and has sought to reconstruct our republican institutions upon the broad basis of equality before the law, and security of all to exercise anywhere the rights conferred by the law. Whatever I can do to secure the rights of all the people of Louisiana to govern themselves according to law in harmony with the Constitution, and so as to secure them all in life, liberty, and property, this I will surely do.

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